

STAFF WORKSHOP
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Implementation of Renewables)	Docket No.
Investment Plan Legislation)	02-REN-1038
and)	
Implementation of Renewables)	Docket No.
Portfolio Standard Legislation)	03-RPS-1078
-----)	

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, MARCH 26, 2009

9:00 A.M.

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John Cota
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COMMISSIONERS PRESENT

Julia Levin,
Presiding Member of the Renewables Committee

Karen Douglas, Chairman
Associate Member of the Renewables Committee

ADVISORS PRESENT

Jim Bartridge, Advisor to Commissioner Levin

STAFF PRESENT

Gina Barkalow

Lorraine Gonzalez

Gabriel Herrera

Galen Lemei

Kate Zocchetti

ALSO PRESENT

Manuel Alvarez
Southern California Edison

Bill Barnes
AES Alternative Energy

Ryan L. Flynn
PacifiCorp

Matt Freedman
The Utility Reform Network (TURN)

Laura Genao
Southern California Edison (SCE)

Hans K. Isern
3 Phases Renewables

Cathy A. Karlstad
Southern California Edison (SCE)

Dan Lieberman
3Degrees, Inc.

Jennifer Martin
Center for Resource Solutions/Green-e Energy (CRS)

Karleen O'Connor
Winston & Strawn LLP
representing AES Wind Generation (AES)

Larry P. Owens
Silicon Valley Power, City of Santa Clara

Alex Pennock
Center for Resource Solutions/Green-e Energy (CRS)

Jeremy Weinstein
PacifiCorp

John R. Whitlow
Pacific Gas and Electric Company (PG&E)

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1 P R O C E E D I N G S

2 9:04 a.m.

3 MS. ZOCCHETTI: Good morning everyone,
4 welcome to the Energy Commission. We really
5 appreciate you attending our staff workshop on the
6 RPS Procurement Verification Data Review.
7 Everyone hear me okay? I am Kate Zocchetti, I am
8 the RPS supervisor here at the Energy Commission.

9 We expect possibly to have a couple of
10 our commissioners join us at some point this
11 morning. The Renewables Committee, which is
12 chaired by Commissioner Levin, and then Chairman
13 Douglas might also join us. At the dais is Jim
14 Bartridge, the advisor to Commissioner Levin.

15 I would like to just go over a little
16 bit of housekeeping with you. Here is our agenda
17 for the morning session. We are going to have a
18 presentation by staff, the little bullets there,
19 and then we will have a public discussion
20 following the presentation. So we would like you
21 to hold your questions, if you would, until the
22 discussion period. Then we will break for lunch
23 about noon.

24 Hopefully you all saw handouts at the
25 table when you first come in. The restrooms are

1 located right outside the main door there to your
2 left. There is a snack bar at the Commission that
3 has coffee and it does have some sandwiches and
4 things for lunch. There are also some restaurants
5 about two blocks to the east, there is a La Bou
6 and Vallejo's and we are going to give you about
7 an hour and a half for lunch.

8 If there is an emergency we will direct
9 you to go out the double doors and across the,
10 kitty corner to the park. So hopefully that won't
11 happen but I need to tell you all how to get out
12 of the building.

13 We are on Webcast and WebEx. WebEx, as
14 some of you may know, is an interactive tool, so
15 we will have people communicating with us via the
16 chat function. So if you are listening to us and
17 you would like to participate in that please go to
18 the Energy Commission's web site and that will
19 direct you to using WebEx. Otherwise if you are
20 listening via webcast you can also call in.

21 So this just gives you a few of the
22 functions of what the WebEx offers. You can see
23 the slides as our audience here sees them. You
24 can raise your hand to ask a question. We have a
25 live person here waiting for your questions and

1 you can chat with that person.

2 You are muted but we will unmute the
3 WebEx during our question and answer period. And
4 again, if you have the workshop notice in front of
5 you you can also find out how to participate
6 through the Internet.

7 We have blue cards. If you are here in
8 our audience and you plan to have some comments or
9 perhaps during our presentation you have some
10 questions you would like to ask, the blue cards
11 are located on the table when you come in. Please
12 fill those out and hand them to Theresa standing
13 in there. Hi Theresa. We will take those in the
14 order that we receive those.

15 Also our court reporter here is making a
16 transcript of today's workshop. So if you do come
17 up to the podium to speak he would appreciate a
18 business card so that he gets your name and
19 spelling correct for the record.

20 Also during the Q and A period, that's
21 when the WebEx folks can participate.

22 So this is just the order that we plan
23 to take questions. We are of course happy to be
24 flexible if someone needs to leave early. Just
25 let us know and we will take that into

1 consideration.

2 This is the agenda for the afternoon
3 session. So as I said, about an hour and a half
4 or so for lunch. For those folks that don't need
5 to be here for the afternoon but if we have new
6 folks coming in I'll go ahead and go over this all
7 again in the afternoon.

8 So before we get started I would like to
9 ask everyone to please mute your cell phones,
10 BlackBerries, anything that rings or sings; thank
11 you.

12 And I would ask if there are any
13 questions before we start?

14 Okay, I would like to introduce the
15 Energy Commission staff here at our front table.
16 To my right is Gina Barkalow. She is the manager
17 of the RPS Procurement Verification Project. To
18 her left is Gabe Herrera, our legal counsel that
19 advises us on all things RPS. And to his left is
20 Lorraine Gonzalez who works very closely with
21 Gina. So you have probably communicated with one
22 or all of those folks, they have been very good at
23 working with everyone to get ready for today's
24 workshop.

25 So with that I would like to have Gina

1 come up and present the staff presentation for the
2 morning.

3 MS. BARKALOW: Good morning everyone,
4 thank you for coming. I'll go ahead and get
5 started. As Kate mentioned, I request that you
6 hold your questions until the end of the
7 presentation. We have a lot to cover this morning
8 and I think it would be a more efficient use of
9 our time if we, if we did things that way.

10 The Energy Commission and the California
11 Public Utilities Commission jointly implement
12 California's Renewable Portfolio Standard. The
13 Energy Commission's responsibilities include
14 certifying eligible renewable resources; designing
15 and implementing an accounting system to verify
16 Renewable Portfolio Standard compliance; and
17 establishing a system that protects against
18 multiple counting of the same Renewable Energy
19 Credit.

20 Staff is using the interim tracking
21 process as we transition to the Western Renewable
22 Energy Generation Information System or WREGIS.
23 The PUC is responsible for determining whether or
24 not a retail seller is in compliance with its
25 annual RPS targets and whether penalties should be

1 applied.

2 As most of you probably know, renewable
3 energy credits differ from fossil fuel --
4 renewable energy contracts differ from fossil fuel
5 contracts because they can include renewable and
6 environmental attributes associated with the
7 renewable energy production. These attributes are
8 termed renewable energy credits or renewable
9 energy certificates. The acronym is RECs and you
10 will hear the term RECs a lot this morning.

11 Although not legislatively mandated the
12 Verification Report is prepared as part of the
13 Energy Commission's responsibilities under the
14 RPS. The Verification Report aims to verify RPS
15 procurement claims. It does not determine
16 compliance with RPS targets. And this report will
17 be prepared and ultimately transmitted to the PUC.

18 The Energy Commission has issued
19 Verification Reports for the years 2004 and 2005
20 but these only included investor-owned utility
21 procurement data. The 2006 report will include an
22 analysis of the years 2004 through 2006 for
23 electric service providers and small and multi-
24 jurisdictional utilities making RPS claims, as
25 well as IOU claims for 2006.

1 I want to clarify that we have not
2 written a report. That we are doing this as a
3 two-step process. The first step is reviewing the
4 data here today. After this workshop, drawing
5 from the results of this workshop, we will issue a
6 draft report. And that will be available for
7 public comment.

8 The policy issues identified during the
9 verification process include procurement from
10 unbundled energy contracts; procurement from
11 facilities without RPS certification; and
12 estimating incremental geothermal.

13 Background information and questions to
14 guide this workshop discussion have been provided
15 in Attachments A and B of the workshop notice,
16 which can be found on the sign-in table.

17 I have summarized the information from
18 the attachments in the following slides.

19 What I will be reviewing now is
20 background information on topic one, procurement
21 from unbundled energy contracts.

22 The Public Utilities Code states that
23 for contracts executed before January 2005 no RECs
24 shall be created unless explicitly specified in
25 the terms and conditions that there are RECs and

1 the ownership of those RECs.

2 Southern California Edison Company has
3 claimed procurement from Mountain View wind
4 facilities towards its RPS targets from the years
5 2003 through 2007. Annual procurement targets do
6 not start until 2004, so the 2003 claim does not
7 count and this verification data period will not
8 cover the year 2007. Today we are just focusing
9 on the years 2004 through 2006.

10 SCE's procurement from Mountain View
11 does not include the RECs. This contract
12 specifies that the RECs belong to the facility
13 owners, which in this case is currently AES
14 Corporation.

15 Energy Commission staff inadvertently
16 counted SCE's Mountain View procurement claim
17 toward SCE's RPS obligations for the years 2004
18 and 2005.

19 Energy Commission staff learned that
20 SCE's contract did not include the RECs.

21 SCE has continued to report Mountain
22 View on their RPS track forms.

23 Now we are going to look at the tables
24 that show Mountain View claims reported to the
25 Energy Commission through the years 2004 through

1 2006. These tables were taken from Attachment B
2 of the workshop notice so some of you may have
3 already reviewed these tables.

4 In Tables 1 through 3 Energy Commission
5 staff has identified the following parties as
6 having made claims to the renewable energy credits
7 from Mountain View facilities. The data in the
8 tables have been reported to the Energy Commission
9 through the Senate Bill 1305 Power Source
10 Disclosure Program and the Renewable Portfolio
11 Standard Procurement Verification Program.

12 In this table for the year 2004 you see
13 that SCE and 3 Phases Energy Services have made
14 Mountain View claims. You might note that both
15 SCE's total procurement and the total procurement
16 exceed generation and I want to explain that. In
17 our verification process we allow for differences
18 of up to five percent between procurement and
19 generation. And that is because there are often
20 differences in reporting methods and meter
21 readings that might result in variations in the
22 numbers.

23 If various generation sources show
24 different generation amounts per facility,
25 procurement is compared with the data source

1 showing the most generation from that facility.
2 Consistent with this approach this is the --
3 Consistent with the approach used in the
4 reconciliation of retailer claims report. If the
5 total amount claimed exceeds five percent of
6 reported generation staff requests invoices from
7 entities making the claims to verify the
8 purchases. Five percent is considered an
9 acceptable margin.

10 So the data and the Tables 1 through 3
11 do not represent the wholesale purchases of
12 Mountain View RECS, which will be shown in Table
13 4. The data listed here assume that the parties,
14 other than Southern California Edison, procured
15 unbundled Mountain View RECs and did not procure
16 the energy.

17 After my presentation is over please
18 inform us if you have any corrections or additions
19 to the data in the tables, particularly if you
20 have information on any other party that procured
21 or claimed to procure RECs and/or energy from
22 Mountain View facilities over this same period.

23 And you can see that in 2005 we have
24 Burbank Water and Power, 3 Phases Energy Services,
25 Turlock Irrigation and SCE claiming for Mountain

1 View. The reason unknown is listed in the
2 Mountain View I and II rows is because the
3 reporting entities did not differentiate between
4 Mountain View I and Mountain View II and reported
5 that as an aggregate number, which is shown in the
6 total row.

7 It is worth noting that in the Power
8 Source Disclosure Program there is not the same
9 requirement that the claims include RECs and
10 energy as is required in the RPS program.

11 The total amount claimed here exceeds
12 generation by more than five percent.
13 Unfortunately this procurement claim was not
14 caught at the time, this over-procurement claim.

15 In 2006 you can see that SCE and Palo
16 Alto both made claims to Mountain View. From this
17 slide it might not look like there is a potential
18 problem here because procurement claims do not
19 exceed generation. But you will see in the next
20 slide a better picture of what has happened with
21 the Mountain View RECs.

22 While 1305 claims shown in the previous
23 slides account for a rather small percentage of
24 the overall Mountain View RECs, this table shows
25 the amount of wholesale RECs purchased by

1 voluntary REC marketers and then sold into the
2 voluntary market to specific consumers such as
3 Safeway, sustainable websites and others. Staff
4 understands these voluntary market claims to have
5 been made possible through the purchase of
6 Mountain View RECs from these wholesale REC
7 marketers.

8 The REC claims shown here are made by
9 entities that do not report to the Energy
10 Commission. But this information was reported to
11 the Energy Commission by Green-e Energy. An
12 organization responsible for a voluntary
13 certification program.

14 The last column shows that nearly 100
15 percent of Mountain View RECs have been sold into
16 the voluntary market in 2006. And with SCE
17 claiming 100 percent of Mountain View generation
18 towards their RPS program we can see that there is
19 a problem.

20 Please inform staff of any corrections
21 or addition to the data, particularly if you have
22 any information on other wholesale marketer
23 procurement claims that are from the same period
24 not accounted for in the table. But again, please
25 hold your questions until the end of the

1 presentation.

2 For parties selling RECs in the
3 voluntary market what protections are in place to
4 ensure that RECs are not double counted and that
5 only one REC is created for each megawatt hour of
6 renewable energy generated?

7 So I need to go over all of these
8 questions for people listening who can't attend
9 the presentation so just sort of bear with me as I
10 summarize the questions that were in the
11 Attachment B.

12 As I mentioned earlier, the DWR contract
13 covering Mountain View specifies that the RECs
14 belong to the facility owner, AES Corporation,
15 today. DWR contracts were issued during the 2001
16 and 2002 electricity crisis and the PUC
17 subsequently assigned these contracts to the
18 investor-owned utilities to manage. As a
19 reminder, the DWR contracts -- I'm sorry.

20 The question for the public here is, how
21 does Public Utility Code 399.16(a)(5) impact, if
22 at all, DWR contracts?

23 And should DWR contracts from renewable
24 facilities but without RECs be treated differently
25 than contracts where the buyer procures only

1 unbundled energy.

2 Both PG&E and San Diego Gas and Electric
3 were assigned DWR contracts that did not include
4 the RECs. They did not claim this generation
5 towards their RPS procurement targets, recognizing
6 that the contracts provided unbundled energy.

7 If you think DWR contracts should be
8 treated differently, should the exception apply to
9 all such structured contracts?

10 This is Table 5. And this is to provide
11 some context of the magnitude of SCE's Mountain
12 View claim. SCE's procurement claim makes up
13 approximately .27 to .30 percent of SCE's annual
14 retail sales. SCE's annual procurement target for
15 2004 through 2006 ranged from 16.9 to 17.9 percent
16 of SCE's annual retail sales.

17 The table shows staff's draft estimates
18 of SCE's RPS-eligible procurement with and without
19 Mountain View claims. Please note that these are
20 draft estimates. These numbers were pulled from
21 their PUC compliance filing and they may be
22 subject to change as a result of the verification
23 process. So the difference is approximately .27
24 to .30 percent of the APT, but that is also
25 equivalent to about one-third of their incremental

1 procurement target, which is one percent of the
2 previous year's retail sales.

3 Are there any conditions under which SCE
4 would be allowed to claim that its unbundled
5 procurement from Mountain View is RPS-eligible?

6 Should SCE be allowed to retroactively
7 procure RECs from other RPS-certified facilities
8 to match or rebundle them with the energy procured
9 through the Mountain View contract? Why or why
10 not?

11 Current RPS rules would prohibit this
12 option. If you believe that this option has merit
13 please identify which PUC or Energy Commission
14 rules pertain. And would statutory changes be
15 needed? If so, please identify them.

16 Energy Commission staff is aware that
17 the RPS evaluation of SCE's procurement from the
18 Mountain View facilities may have consequences for
19 SCE's ratepayers, parties who procured RECs from
20 these facilities and other interested parties.

21 Please describe how the conditions or
22 actions proposed in response to the above
23 questions, all the questions in Attachment B, may
24 affect you or other interested parties.

25 What remedies, if any, should the Energy

1 Commission and/or the PUC consider to address
2 these issues?

3 Can you please bear with me. I am going
4 to quickly cover the other two policy issues and
5 then go over the next steps and then we can open
6 it up for public discussion.

7 The RPS Eligibility Guidebook requires
8 that RPS procurement claims come from RPS-
9 certified facilities. The first step taken in our
10 verification process is to confirm that
11 procurement claims are made from certified
12 facilities.

13 PacifiCorp has RPS procurement claims
14 from facilities that are not RPS certified.

15 Should procurement claims from
16 facilities that are not currently RPS-certified be
17 eligible to count towards the utility's RPS
18 obligations?

19 As required by the RPS Eligibility
20 Guidebook should the facility be required to
21 become RPS-certified for their generation to count
22 towards the utility's RPS requirement?

23 If yes, by what date should the facility
24 become RPS-certified for their generation to
25 count?

1 This is on estimating incremental
2 geothermal procurement. Senate Bill 107 has
3 removed the incremental geothermal requirements
4 from 2007 forward. Since the requirement existed
5 for 2006 we will include a section on incremental
6 geothermal in the 2006 Verification Report.

7 And for 2006 are there any foreseeable
8 problems with continuing to allocate incremental
9 geothermal to the IOUs, as was the practice in
10 previous Verification Reports?

11 Workshop comments are due April 3 and
12 detailed instructions on how to submit written
13 comments are found in the workshop notice. And
14 there are copies of the workshop notice on the
15 sign-in table and also available on our website.

16 We will carefully review and consider all
17 comments and make any needed revisions to our
18 analysis and present our findings and conclusions
19 in the Draft Verification Report, which we will
20 release for public comment.

21 Once finalized the Energy Commission
22 will consider it for adoption.

23 And once it is adopted we will transmit
24 the report to the PUC for use in applying flexible
25 compliance rules and determining if retail sellers

1 are in compliance with their RPS procurement
2 obligations.

3 Once the PUC receives the Final
4 Verification Report retail sellers will be
5 required to issue verified compliance reports 30
6 days afterwards.

7 So I have summarized the questions in
8 the table here. Unless there are any questions I
9 would like to open the meeting up for public
10 discussion. If you have any questions feel free
11 to ask. I think we have some blue cards here.
12 Okay, so I have a card from Karleen O'Connor from
13 AES Wind Generating Company.

14 MS. O'CONNOR: Good morning. My name is
15 Karleen O'Connor. I am with the law firm of
16 Winston & Strawn and we represent AES Wind
17 Generation who owns Mountain View Power Partners
18 LLC.

19 AES Wind Generation acquired Mountain
20 View Power Partners in 2008. We will be
21 submitting comments but we also, to address the
22 questions in terms of question 1a: Mountain View
23 Power Partners will be providing a chart which
24 details the counter parties to which Mountain View
25 Power Partners sold RECs from 2004 to 2006 and in

1 what quantities.

2 Mountain View Power Partners verified
3 this information by reviewing all available
4 attestation forms and validated the data provided
5 to the counterparty as certifying the creation and
6 transfer of RECs.

7 Mountain View Power Partners
8 acknowledges that for 2004 the values do not
9 exactly correspond to the table provided by the
10 Commission and we are presently unable to account
11 for this discrepancy. As the current owner,
12 acquiring Mountain View Power Partners in 2008, it
13 is conceivable that not all of the attestation
14 forms for 2004 are in Mountain View Power
15 Partners' possession at this moment. But what we
16 will be providing is what we have been able to
17 compile at this time.

18 Turning to the question of safeguards
19 that are in place to protect REC buyers and to
20 assure that RECs are not double counted. Mountain
21 View Power Partners and the buyer of Mountain View
22 Power Partners' RECs can be assured that the RECs
23 are not double counted and only one REC is created
24 for each megawatt of renewable energy.

25 Because Mountain View Power Partners

1 only sells its RECs once. It only sells one REC
2 for each megawatt of energy, of renewable energy
3 created, and it only sells -- excuse me. And
4 Mountain View Power Partners only sells that REC
5 once, whether it is bundled or unbundled. Once it
6 is sold Mountain View Power Partners cannot and
7 will not resell the REC because it no longer holds
8 title to the REC.

9 Mountain View Power Partners' REC
10 agreements for the period between 2004 and 2006
11 required that the RECs be validated through the
12 Green-e certification process and through specific
13 attestations provided by Mountain View Power
14 Partners to the counterparty.

15 In terms of how Edison's claims for
16 these RECs should be treated. Mountain View Power
17 Partners is not taking a position on whether the
18 procurement of energy from the projects in 2004 to
19 2006 should be counted as RPS-eligible procurement
20 with respect to SCE.

21 However, at all times Mountain View
22 Power Partners rightfully and legally owned and
23 sold the environmental attributes, including the
24 RECs associated with the production of renewable
25 energy from the projects. Pursuant to the DWR

1 contract, Mountain View Power Partners holds the
2 exclusive title to the RECs and has the right to
3 sell the RECs to a third party, which it did.

4 Mountain View Power Partners is not
5 taking a position on whether Edison should be
6 allowed to claim that those RECs it purchased in
7 2004 through 2006 should be RPS eligible.

8 And Mountain View Power Partners is not
9 taking a position on any actions, conditions or
10 remedies that the CEC or the PUC is ultimately
11 going to take vis-a-vis Edison, SCE's ratepayers
12 or any other interested party.

13 Except that Mountain View Power Partners
14 contractual rights to create and own the RECs from
15 these Mountain View projects as delineated in the
16 DWR contract as well as Mountain View Power
17 Partners' right to sell those RECs to a third
18 party, pursuant to the REC contracts must be
19 honored. The CEC and CPUC should not take any
20 action to interfere with those lawful
21 transactions.

22 And we will be submitting comments as
23 well as the information that we have gathered from
24 our review of the attestation forms. Thank you.

25 MS. BARKALOW: Thank you. Okay, next we

1 will have Dan Lieberman from 3Degrees.

2 MR. LIEBERMAN: Hi, thanks. I am Dan
3 Lieberman with 3Degrees. I have provided an 88
4 page document, there are copies in the front, and
5 I won't read it in its entirety. But I will just
6 say, I will outline what is contained in the
7 document and hit upon six of the key points.

8 First, there is a description of
9 3Degrees. We are a leading renewable energy
10 certificate marketing company. We have won a
11 number of national awards. We have been
12 recognized by the US Department of Energy a number
13 of times as Renewable Energy Marketer of the Year.

14 Personally my background. I have been
15 with 3Degrees for about a year and a half and the
16 seven years prior to that I worked for Center for
17 Resource Solutions on the Green-e program. So my
18 background is in consumer protection and working
19 in these sorts of issues. And I actually decided
20 to work at 3Degrees because I saw them as one of
21 the most credible and honest brokers of renewable
22 energy certificates.

23 Our comments that we are providing in
24 writing today go through our qualifications. They
25 outline six key reasons why we think that SCE's

1 procurement should not be eligible toward RPS
2 compliance. We include as attachments our model
3 REC agreement, which outlines an answer to the
4 question about how to protect consumers from
5 double counting.

6 It includes seven, seven different -- It
7 contains seven different copies of example
8 contracts that we have with Centennial for the
9 RECs that we procured and then we sold.

10 And it also contains copies of written
11 correspondence that we had with the CEC and the
12 CPUC in previous years alerting those agencies to
13 the fact that we were selling these RECs, which is
14 part of our Green-e compliance requirement. I
15 know it was mentioned I think in the introduction
16 that Green-e provides that notification but
17 actually 3Degrees, and our predecessor 3 Phases,
18 provided that notification and written copies of
19 that correspondence is provided in our handout.

20 So as to the key points. I'll just read
21 a few sentences here and then I'll be done.

22 3Degrees, including its predecessors,
23 have operated in the state of California since
24 2002, doing business with California utility
25 counterparties. They are all listed here in the

1 document.

2 And it is our view that the CEC should
3 not allow SCE to claim procurement from Mountain
4 View I and II toward RPS targets for the years
5 2003 through 2007 because:

6 One, SCE never acquired valid to the
7 RECs under either their contract with DWR or CPUC
8 Code 399.16(a) (5) .

9 Point two is that other parties that
10 have relied on the CEC and the PUC precedent and
11 took ownership of the RECs for Mountain View would
12 be deprived of the benefit of their bargain if SCE
13 were allowed to procure these RECs for RPS
14 compliance.

15 Point three is that allowing SCE to
16 procure these RECs would pull innocent Mountain
17 View REC counterparties into litigation, which
18 would have the effect of harming those parties,
19 decreasing consumer confidence in REC markets, and
20 de-stabilizing REC markets.

21 Point four, allowing SCE to procure
22 these RECs would require the state of California
23 to pay just compensation to parties which were
24 divested of their REC rights pursuant to a
25 regulatory taking under the Fifth Amendment of the

1 US Constitution.

2 Point five, SCE would be granted an un-
3 bargained for benefit.

4 And six, allowing SCE to procure these
5 RECs would establish a dangerous precedent for
6 voluntary market participants.

7 And as we go into in the text of the
8 memo itself, we also think it sets a bad precedent
9 for RPS policy.

10 So just to reiterate. 3Degrees finds
11 that CEC should not allow SCE to claim that its
12 unbundled procurement from Mountain View qualifies
13 RPS-eligible. If the CEC allows SCE to claim RPS
14 eligibility then the CEC is sanctioning double
15 counting and taking what was rightfully purchased
16 by Mountain View counterparties. The purchasers
17 of the RECs made legitimate and public claims to
18 the renewable attributes and these claims cannot
19 be undone. The CEC uphold its policies and the
20 law. Thank you.

21 MS. BARKALOW: Thank you. Okay, next we
22 have Jennifer Martin from the Center for Resource
23 Solutions, Green-e Energy.

24 MS. MARTIN: Hi, thank you. I am also
25 going to ask that Alex Pennock from CRS, who is

1 the Green-e program manager, join me up here in a
2 couple of minutes.

3 MS. BARKALOW: Excuse me. I'm sorry but
4 I just wanted to let everybody know that Chairman
5 Douglas has joined us and I was wondering if you
6 had any questions or comments right now?

7 ASSOCIATE MEMBER DOUGLAS: Thank you.
8 I'm sorry to interrupt with some comments in the
9 middle of -- I guess it is not in the middle, it's
10 the very beginning of your comments if that's
11 okay.

12 All I think I want to say at this point
13 is that Commissioner Levin and I are very aware of
14 this issue and we have both been through the
15 details of it. I for longer than she just because
16 she was appointed several months after I first
17 started combing through this issue.

18 We have thought quite a bit about it. I
19 think we are still at a point where we are trying
20 to determine the best way forward and we are very
21 interested in the public comment. This is one
22 issue where we really are all ears, so to speak,
23 as we try to chart a course through this rather
24 difficult issue.

25 So I am pleased to see the public

1 interest that is here. I was pleased to get the
2 86 page comment letter and probably even more so
3 by the rather brief summary of it here today. But
4 anyway, thank you very much for being here. We
5 very much are listening today, thank you.

6 MS. BARKALOW: Thank you.

7 MS. MARTIN: Thank you. I am Jennifer
8 Martin. I am the deputy director of the Center
9 for Resource Solutions. We are a 501(c)(3)
10 California corporation based in San Francisco and
11 we administer the Green-e energy program.

12 I am going to give a brief summary of
13 some comments. We plan to file formal written
14 comments before the deadline. And we ask that the
15 Commission consider written comments before
16 issuing their draft on this because there was
17 quite a bit of information provided in the
18 comments that may influence your decision-making.

19 Green-e Energy is a voluntary
20 certification program for voluntary renewable
21 energy transactions in North America. It was
22 established in 1997 and we have been certifying
23 products from generation in California and sold to
24 California customers since 1997, as well as
25 customers all over the United States and in

1 Canada.

2 The way Green-e works is we have a
3 national standard that is developed through broad
4 public participation and overseen by an
5 independent governance board, which describes what
6 types of renewable energy qualify for voluntary
7 renewable energy transactions.

8 Over the years the voluntary market for
9 renewable energy has become very robust in the
10 United States and the National Renewable Energy
11 Lab recently issued a report that documented that
12 more, new renewable energy in the last decade has
13 been supported by the voluntary market than all
14 state RPSes combined. So it is a very significant
15 market.

16 One of the key foundational principles
17 in the voluntary market is that when a customer
18 buys renewable energy they have the sole claim to
19 that and there is no double counting. A
20 requirement of our program is that no renewable
21 energy that is counted towards an RPS can be sold
22 in the voluntary market. And we require every
23 party that participates in our program, from the
24 generator through all intermediary marketers to
25 the final marketer to customer, to sign

1 attestations and to include in their contracts,
2 statements that what they are selling, to their
3 knowledge and based on their actions, has not been
4 used for RPS.

5 When Alex gets up in a few minutes he
6 will be able to read you some of the specific
7 language that has been signed by the generator,
8 owner and counterparties through the years
9 regarding the Mountain View RECs. That they were
10 not used for RPS compliance.

11 A key component of the Green-e program
12 is our annual verification, much like the CEC does
13 for the Power Source Disclosure Program. We
14 require all our participants to go through an
15 annual verification process where an independent
16 auditor comes in and does a contract path audit
17 for the period of time we are looking at here to
18 assure that they bought and sold renewable energy
19 once and only once, and that their claims about
20 the renewable energy they bought and sold are
21 accurate.

22 So with regard to the Mountain View
23 RECs. We reviewed all our prior audit documents
24 and have discovered that in the years in question
25 for this proceeding quite a few RECs from Mountain

1 View have been certified by the Green-e Energy
2 program. And I wanted to -- We will be providing
3 the Commission some supplemental data about the
4 counterparties and customers who were part --
5 either bought and sold these RECs or claimed them
6 in a retail transaction. I want to give you just
7 a high level summary of what that data is.

8 So in 2004 we have identified at least
9 six counterparties who transacted Mountain View
10 RECs on the wholesale market, representing 70
11 million kilowatt hours. In 2005 there were 11
12 counterparties that transacted Mountain View RECs
13 in the wholesale market representing 103 million
14 kilowatt hours. And in 2008 there were eight
15 distinct counterparties that transacted in
16 Mountain View RECs representing 96 million
17 kilowatt hours.

18 And those are just the voluntary market
19 transactions that Green-e certified. We have
20 nationally about a 60 to 70 percent market share
21 of voluntary transactions so there is a
22 possibility that there were other voluntary
23 transactions for which we don't have
24 documentation. And all together for these years
25 we have certified transactions that were

1 ultimately sold to 70,000 retail customers.

2 So all together there's -- A very large
3 portion of these transactions have been certified
4 through Green-e. And even for each megawatt hour
5 there may be multiple parties who transacted the
6 REC associated with that megawatt hour in a chain
7 of custody.

8 We think it is essential that the
9 Commission does not grant ownership of these RECs
10 retroactively to SCE for RPS procurement. It
11 would invalidate all of the voluntary transactions
12 that we have certified over the years. It would
13 require all the counterparties that have
14 participated in Green-e to refund their customers
15 the value and/or find replacement RECs. Because
16 of the extent of these transactions it would be
17 quite, quite expensive and tedious in order to
18 enforce that. It would also erode confidence in
19 the voluntary market and would create contractual
20 liabilities between all of the counterparties who
21 transacted in the wholesale market.

22 With that introduction I would like to
23 invite Alex to come up here and provide a little
24 bit more detail on the data that we have got about
25 where these RECs were transacted.

1 MR. PENNOCK: Hi everyone. Thanks for
2 giving me a chance to --

3 MS. BARKALOW: Excuse me, I'm sorry.
4 Before you get started I just wanted to introduce
5 Commissioner Levin. Commissioner Levin, do you
6 have any questions or comments that you would like
7 to make at this time?

8 PRESIDING MEMBER LEVIN: Just an apology
9 for being late. Thank you all for being here.

10 MS. BARKALOW: Thank you. Okay.

11 MR. PENNOCK: Okay. I'm Alex Pennock, I
12 am the manager of the Green-e energy certification
13 program that Jennifer was just informing you
14 about. And I appreciate the chance to give some
15 additional comments to hers.

16 I have compiled data from 2004 actually
17 through 2007 for Mountain View I and II RECs that
18 have shown up in Green-e Energy certified products
19 at the wholesale and retail level. I wanted to
20 share some of those numbers to give a sense of the
21 impact that a certain decision might have on the
22 number of kilowatt hours involved in all these
23 transactions.

24 So looking at 2004 through 2007. There
25 were 24 unique, distinct marketers involved at

1 various levels in the chain of ownership of these
2 RECs for over one billion kilowatt hours these
3 facilities transacted. And as Jennifer mentioned
4 this is chain of custody so it's not unique
5 kilowatt hours but those are kilowatt hours tied
6 up in contracts for those years.

7 Jennifer also mentioned approximately
8 70,000 retail customers that we have identified as
9 receiving these RECs. And I wanted to point out
10 that nearly 60,000 of those, actually 56,000, are
11 California municipal utility customers who bought
12 those RECs through green pricing programs. So
13 that is also very significant.

14 In terms of the language in the
15 attestations that was signed off on by the owners,
16 the various owners of the facilities over the
17 years. Just to give you a few of the specifics
18 that Jennifer alluded to. What they signed off on
19 is:

20 "All the renewable attributes,
21 including any emission reduction
22 credits or allowances represented
23 by the renewable electricity
24 generation listed above, would
25 transfer to purchaser above.

1 "To the best of my knowledge
2 the renewable attributes were not
3 sold, marketed or otherwise claimed
4 by a third party. Sellers sold the
5 renewable attributes only once.

6 "The renewable attributes or
7 the renewable electricity that was
8 generated with the attributes was
9 not used to meet any federal, state
10 or local renewable energy
11 requirement, renewable energy
12 procurement, renewable portfolio
13 standard or other renewable energy
14 mandate by seller. Nor to the best
15 of my knowledge, by any other
16 entity.

17 This is language from our standard
18 generator attestation form that all generators
19 would sign as they pass RECs on to marketers.

20 Also to give you some more numbers about
21 the size of the voluntary market. In 2006 NREL
22 identified that it was over 18 billion kilowatt
23 hours. We have seen in 2007, at least for our
24 numbers which are not all of the market, that has
25 grown significantly. There are over 750 utilities

1 nationwide participating in this market including
2 many in California, many of which we work with.
3 Dozens of marketers.

4 The voluntary market has a big role in
5 LEED green building certification standards, in
6 the EPA Green Power Partnership, and there are
7 many large purchasers, large companies including
8 Intel, that participate in this market. Rely on
9 its robustness and rely on Green-e and others to
10 provide assurances.

11 We will be submitting these formal
12 numbers that I have gone through in detail later
13 in our written comments and they will be available
14 for follow-up.

15 I just want to point out, as Jennifer
16 did, that the numbers we are submitting do not
17 reflect the entire market so it is very likely
18 that the number of parties and number of kilowatt
19 hours of transactions is higher than will be
20 represented in the numbers that we are submitting.
21 Thank you.

22 MS. BARKALOW: Thank you. Next I have
23 Larry Owens from Silicon Valley Power.

24 MR. OWENS: Good morning, Larry Owens,
25 Silicon Valley Power. We are the City of the

1 Santa Clara's municipal electric utility and a
2 recipient of the renewable energy credits, or some
3 of the renewable energy credits from this
4 facility. And I wanted to participate today
5 because my role is that I have direct
6 accountability in the integrity and the
7 representation of the renewable energy credits
8 that we sell and retire with our customer base.

9 Santa Clara has the distinction of being
10 in the top, the top three green power community in
11 America, as recognized by the EPA. We often and
12 always recently have been making the NREL top ten
13 list for our green power, voluntary green power
14 program. And we have achieved quite a space in
15 this marketplace and it is a very important
16 project for us in that regard.

17 So some of the customers I'm accountable
18 for this program are National Semiconductor,
19 Applied Materials, Westfield Mall and the City of
20 Santa Clara itself, who is a major purchaser of
21 green power. To in some way cheapen or lessen the
22 value of those renewable energy credits through
23 double counting, it would be more than just a
24 small blow to the integrity of our program and the
25 accountability that we have in our program.

1 Looking farther out. The renewable
2 energy credit market is the topic of discussion in
3 so many different circles right now as we move
4 forward to try to green California to increase our
5 amount of renewable energy content and spill or
6 infect the rest of the western United States with
7 that enthusiasm. The REC market will play a vital
8 role in that and the integrity of that is seen as
9 paramount.

10 We believe that the California Energy
11 Commission should uphold its policy with regard to
12 renewable energy credit accounting. That Southern
13 Cal Edison's report should be corrected to reflect
14 that they do not own the renewable energy credits
15 associated with this power source. And that
16 further claims by Southern Cal Edison shall be
17 curtailed to restore integrity to the system. And
18 thank you very much.

19 MS. BARKALOW: Thank you. Next we have
20 Cathy Karlstad from Southern California Edison.

21 MS. ZOCCHETTI: I would like to remind
22 everyone to make sure our reporter gets your
23 business cards for the spelling of your name.
24 Thank you.

25 MS. KARLSTAD: Thank you. My name is

1 Cathy Karlstad and I am an attorney for Southern
2 California Edison.

3 As was presented in the presentation,
4 this Mountain View wind contract is a DWR contract
5 that was a result of the energy crisis in 2001.
6 It was executed before the RPS legislation was
7 even adopted, before there was any discussion of
8 renewable energy credits.

9 And it came, you know, under special
10 circumstances. It was an energy crisis contract
11 signed by the State which the state has
12 characterized as a renewable contract. Even
13 currently on the DWR website it is listed as a
14 long-term contract with a renewable resource. SCE
15 did not play any role in negotiating this contract
16 but the CPUC has allocated it to SCE's customers
17 and our customers have been paying for the
18 contract since 2003.

19 SCE has counted the deliveries from the
20 Mountain View wind contract for RPS credits since
21 2003 under the RPS program. The RPS legislation
22 is a mandatory requirement on SCE customers, it is
23 not a voluntary requirement. And our priority --
24 You know, SCE's customers pay for compliance with
25 this program. And while SCE understands that

1 there's involuntary market claims involved here,
2 the priority here is RPS compliance and should be
3 maintaining the integrity of RPS compliance rules.

4 I want to go into a little bit of the
5 history of the RPS law. Until SB 107 was passed
6 and took effect in the beginning of 2007 the law
7 did not discuss renewable energy credits or
8 renewable attributes at all, it measured
9 procurement from renewable energy. There was no
10 mention of RECs, there was no mention of renewable
11 attributes. And there was no requirement that
12 renewable attributes or RECs be included in order
13 to count for RPS compliance, it measured renewable
14 energy. Based on this law SCE claimed compliance
15 with, claimed RPS for the Mountain View wind
16 energy.

17 PRESIDING MEMBER LEVIN: Ms. Karlstrom,
18 is that your last name?

19 MS. KARLSTAD: Karlstad.

20 PRESIDING MEMBER LEVIN: Karlstad. You
21 are not saying that you didn't actually see a
22 contract that SCE signed, correct?

23 MS. KARLSTAD: No, we acknowledge that
24 the contract, the seller retains the renewable
25 attribute rights under, under the contract.

1 PRESIDING MEMBER LEVIN: And PG&E and
2 SDG&E had identical contracts, correct?

3 MS. KARLSTAD: I am not, I am not -- I
4 believe San Diego has a similar DWR contract. We
5 are not aware of PG&E having such a contract,
6 although it is possible that they do. We couldn't
7 identify what contract it was.

8 PRESIDING MEMBER LEVIN: And do you know
9 if they claimed the RECs under their, SDG&E's
10 contract for RPS eligibility?

11 MS. KARLSTAD: I am not, I am not aware
12 that they claimed their renewable energy
13 deliveries under these contracts. SCE claimed it
14 based on our interpretation of the law. And
15 what's, you know. What SDG&E and PG&E did, we are
16 not aware of that. The notice states that they
17 didn't claim it. We are not aware of any
18 information to the contrary on that.

19 PRESIDING MEMBER LEVIN: But surely you
20 are not saying as a lawyer that because you were
21 not aware of a provision in the contract that you
22 signed that you are not held to it.

23 MS. KARLSTAD: No.

24 PRESIDING MEMBER LEVIN: I'm trying to
25 understand what you are actually trying to argue.

1 Because it doesn't, that argument to me doesn't
2 make sense.

3 MS. KARLSTAD: No we are not, we are not
4 arguing that we are not held to provisions of the
5 contract because we didn't, you know, sign it. I
6 am just making the point that although SCE's
7 customers pay for this contract we did not have a
8 role in executing it. The law --

9 PRESIDING MEMBER LEVIN: I'm sorry, you
10 signed the contract. Isn't that executing it?

11 MS. KARLSTAD: DWR executed the
12 contract.

13 PRESIDING MEMBER LEVIN: But you signed
14 the contract didn't you?

15 MS. KARLSTAD: No, SCE is not a party to
16 the contract. It is a state contracted resource
17 that was allocated to be paid for by SCE's
18 customers under a CPUC decision. SCE is not
19 actually a party to the contract.

20 PRESIDING MEMBER LEVIN: Okay.

21 MS. KARLSTAD: The RPS law, the
22 references before to Section 399.16(a)(5) and the
23 provisions in the RPS law on RECs all were enacted
24 after the period that is at issue here, which is
25 2004 to 2006. Before 2007 there was nothing in

1 the RPS law about renewable energy credits or
2 renewable attributes. The RPS was measured by
3 procurement of renewable energy. SCE received all
4 of the renewable energy under this, under this
5 contract so SCE claimed RPS credit for this, this
6 energy.

7 In our 2003 RPS compliance filing to the
8 CEC we reported that we did not have the renewable
9 attributes for this resource. And the contract is
10 also a public contract, which provides that we
11 don't have the renewable attributes to this
12 resource. The CEC certified SCE's RPS claims in
13 both its 2004 and 2005 Verification Reports. And
14 SCE understood to be the CEC's agreement that
15 SCE's customers were receiving RPS credit for this
16 long-term commitment to the Mountain View
17 resource.

18 ASSOCIATE MEMBER DOUGLAS: If I could
19 ask briefly. Are you saying that in 2003 the
20 issue of whether the renewable energy was bundled
21 or unbundled was irrelevant and had no
22 significance in our Guidebook or in the law or in
23 PUC policy?

24 MS. KARLSTAD: I am saying the law --
25 There was certainly discussion of renewable energy

1 credits. Whether the state should consider a
2 renewable credit system, whether it should
3 consider a renewable energy credit accounting
4 system. And the CEC has since enacted --

5 ASSOCIATE MEMBER DOUGLAS: But there was
6 more than discussion. I mean, the reason why we
7 wanted to know in that and subsequent iterations
8 of our Guidebook whether the renewable energy was
9 bundled, came with the RECs, is that unbundled REC
10 trading was not and still is not authorized as
11 part of the RPS.

12 MS. KARLSTAD: Yes, it isn't authorized
13 and that's sort of my point. The RPS measured RPS
14 eligibility based on renewable energy. Parties
15 who may have gotten unbundled renewable energy
16 credits cannot claim RPS credit for that. So SCE
17 is the only party that could claim under the RPS
18 program. If SCE doesn't receive RPS credit for
19 the resource no one under the state's program can
20 receive RPS credit, and a state-contracted
21 renewable resource that SCE customers are paying
22 for for ten years won't count at all for the RPS
23 program.

24 ASSOCIATE MEMBER DOUGLAS: And if Edison
25 had gotten bundled renewable energy as part of its

1 portfolio and then sold the RECs in the voluntary
2 market do you think SCE should be allowed to count
3 that as RPS eligible?

4 MS. KARLSTAD: If SCE -- I mean SCE --

5 ASSOCIATE MEMBER DOUGLAS: Because you
6 would have the energy. And no one else would be
7 allowed to claim the RPS value of it. If you then
8 sold the RECS in the voluntary market would you
9 still be allowed to claim it?

10 MS. KARLSTAD: I mean, I don't think SCE
11 would have been able to sell them in the voluntary
12 market under that circumstance.

13 ASSOCIATE MEMBER DOUGLAS: Okay.

14 MS. KARLSTAD: We acknowledge that the
15 Mountain View is a special circumstance. We are
16 not, we are not attempting to apply a broad
17 principle to all, all renewable contracts. This
18 was a contract that was signed in the energy
19 crisis. It's a special circumstance.

20 The state policy has recognized the
21 special circumstances around DWR contracts and
22 other contracts under -- such as resource adequacy
23 by holding the resources count, regardless of the
24 fact that the contracts may not include all of the
25 same requirements that other resource adequacy

1 eligible contracts have to require.

2 So we acknowledge that this is a special
3 circumstance. But our customers have been paying
4 for this resource for, for ten years under a ten
5 year contract. We counted it in the past and it
6 has been certified. So if that certification is
7 retroactively taken away we have gaps in the past
8 that basically we have no way to fill and our
9 customers will have higher future obligations that
10 will have to be met at higher costs.

11 ASSOCIATE MEMBER DOUGLAS: If the
12 special circumstances of the DWR contract should
13 allow you to apply that to the RPS should we also
14 allow PG&E and SDG&E to apply their contracts to
15 the RPS, their DWR contracts?

16 MS. KARLSTAD: If they have similar
17 contracts we would agree that they should apply to
18 any similarly situated DWR --

19 ASSOCIATE MEMBER DOUGLAS: Even if that
20 caused a similar cascade of problems in the
21 voluntary market and the POU's compliance
22 programs?

23 MS. KARLSTAD: It may have effects. SCE
24 is very willing to work with the Commission and
25 other parties on solutions to try to deal with

1 this issue. What we don't want is for our
2 customers to have no benefit from this long-term
3 commitment to renewable energy and have to go back
4 and try to fill gaps that we can't fill from two
5 to four years ago.

6 PRESIDING MEMBER LEVIN: Ms. Karlstad, I
7 think there are going to be some gaps and the
8 question is, who really bears more responsibility.
9 And clearly many of us, many entities bear a
10 responsibility in this. We were dealing with the
11 energy crisis and everyone was overloaded,
12 literally and figuratively.

13 So I don't think that it is so much that
14 we are interested in casting blame and pointing
15 fingers so much as figuring out what are the
16 equities in the situation now, given that a lot of
17 us bear responsibility for a screw-up. I can't
18 think of any other way to put it at this point.

19 So we are not interested in pointing
20 fingers so much as figuring out where are the
21 equities right now. And I think SCE is unique in
22 that it took both the energy and credit for the
23 renewable attributes. The other two IOUs didn't
24 do that.

25 I am quite new to this. I am still

1 trying to sort out what actually occurred and who
2 had contracts with whom. And how you procured the
3 energy, was it a PUC order? And if so, how is it
4 that PG&E and SDG&E seemed to understand they were
5 only getting the energy and not the renewable
6 attributes and SCE missed that?

7 And most importantly, how do we ensure
8 this doesn't happen going forward? I mean, I
9 would like to hear less about you not being
10 guilty, which I don't think really is the question
11 here, and more about what are the steps that SCE
12 and the other utilities are taking. We are
13 certainly taking steps to make sure we don't have
14 this kind of problem again. Because it is hugely
15 complicated now to try to sort out, how do we deal
16 with it retroactively.

17 MS. KARLSTAD: And we would agree, you
18 know. And we are -- I don't mean to be focusing
19 -- I am trying to sort of give some background
20 here but we agree that the focus should be on
21 finding solutions to this problem.

22 And I think, you know, we acknowledge
23 that now WREGIS is a renewable energy credit
24 tracking system and we are not aware of any other
25 similar, similarly situated contracts. So I think

1 it is, it is a specific issue. But we are
2 certainly open to working on solutions to solve
3 the problem. And my colleague, Laura Genao, can
4 maybe talk about possible solutions a little bit,
5 in a little bit more detail. Unless you have any
6 more questions for me?

7 ASSOCIATE MEMBER DOUGLAS: No.

8 MS. KARLSTAD: Thank you.

9 ASSOCIATE MEMBER DOUGLAS: Thank you.

10 MS. BARKALOW: Okay, Laura Genao is
11 next.

12 MS. GENAO: Hi Commissioners, my name is
13 Laura Genao. I am also with Southern California
14 Edison; I work in our renewable procurement group.

15 And I guess, Ms. Levin, to respond to
16 your questions. As Ms. Karlstad said, we don't
17 believe that this is going to be a problem going
18 forward. Right now the CPUC has standard terms
19 for us to put into our procurement contracts that
20 govern the issue of RECs and how to define them.
21 We believe WREGIS will take care of that as well.
22 All of our contracts are being done so that we can
23 report them in WREGIS so that the RECs can be
24 tracked.

25 Currently there is no REC authority. I

1 think there is an agenda item on today's PUC
2 agenda to give us some limited authority to
3 transact in RECs. So we have not been transacting
4 in RECs to this point. Which I believe was part
5 of Ms. Karlstad's point, which was, the history of
6 the RPS program has given us the tie of energy and
7 contracts for energy as what would be the, what
8 would be the thing to count under the RPS program.

9 We are kind of at an interesting place
10 of going from the start of the RPS program into a
11 more mature phase of it and we are getting caught
12 in a seam that needs to be addressed at this
13 point. But we do believe it is a limited
14 situation that should not be a problem going
15 forward. So that I hope puts your mind at ease in
16 terms of going forward and this becoming an issue
17 again. So I just wanted to say that.

18 In terms of possible solutions that we
19 have thought about and the equities of those.
20 Obviously as Ms. Karlstad said, one of them is to
21 make it fully RPS compliant. I don't, I don't
22 know that that's on the table right now but that
23 is obviously one solution.

24 PRESIDING MEMBER LEVIN: Well how do you
25 do that given that other entities have purchased

1 the RECs?

2 MS. GENAO: Well I think it depends on
3 what you are trying to do. If you are trying to
4 maintain the integrity of the RPS program then you
5 have done that. This is RPS. Nobody else can
6 claim it for RPS credit. The RPS law since its
7 inception has tied it to energy. We, SCE, have
8 procured all of the energy. Nobody else has a
9 claim to the energy. And right now in California
10 you cannot claim a REC for RPS credit. So the RPS
11 program would be -- I understand the downside of
12 that is there may be possible double counting in
13 voluntary markets.

14 ASSOCIATE MEMBER DOUGLAS: But beyond,
15 beyond that. We very much want to uphold the RPS
16 law and that is obviously a very central part of
17 our Committee and our Commission as well as the
18 PUC. But there is also the question of contract
19 law. And if upholding RPS law -- making a
20 decision that is consistent with RPS law is
21 inconsistent with contract law, that is a problem.
22 And even if this Commission was willing to do it
23 other parties would have remedies or potential
24 remedies. So we could foresee a period of great
25 uncertainty for I think just about everybody in

1 this room if we went forward on that path.

2 I think what I am encouraging everyone
3 to do is to think about this in a solution-
4 oriented way and realize that multiple parties
5 have claims here and multiple parties have, as
6 Commissioner Levin put it, some equity on their
7 side in this.

8 MS. GENAO: And thank you for that and I
9 think we would, we would agree with that. I
10 believe -- Just to clarify, the DWR contract that
11 was allocated to SCE refers to renewable
12 attributes. It does not refer to a right to count
13 an RPS resource.

14 And I believe that the decision on the
15 -- the latest version of the Commission decision
16 on RECs would only allow RECs to be in existence
17 as of January 1, 2008. So there could be a legal
18 argument that any renewable attribute that existed
19 prior to January 1, 2008 may have existed as a
20 renewable attribute but it cannot count as a REC
21 in the RPS program. So that is just, just to
22 address that issue.

23 But other types of options that we might
24 be able to consider are, to count previously
25 verified amounts as fully RPS compliant. And

1 going forward, you know, count those amounts that
2 have not been claimed in the voluntary market to
3 SCE. So what that might mean is, in 2004 and 2005
4 because the CEC has verified those, give SCE
5 credit for it. In 2006 subtract out all of the
6 stuff that might have been in the voluntary
7 markets at that time.

8 You know, this would have the benefit of
9 honoring previous CEC verifications, it closes the
10 books on the previous years. Because I think that
11 is one of the policy issues that the CEC will have
12 to grapple with. Which is, as we get changing law
13 on the RPS program are we going to revise those
14 things that the CEC has determined are eligible.
15 And how do parties who have entered into contracts
16 based on what's in the Guidebook today going to
17 deal with a 20 year contract if the rules in that
18 Guidebook change next year and how do its
19 customers address that.

20 ASSOCIATE MEMBER DOUGLAS: I hear the
21 point but I guess I'll question whether this was
22 an issue of the rules changing year to year. I am
23 not convinced that that was the cause of this.
24 And I think the rules have been fairly consistent.
25 You make a good point that there is, there was

1 more clarity as the years went on in terms of RECs
2 and unbundled energy being able to count. But I
3 think it was fairly clear from the beginning.

4 And there were also, as policy developed
5 and got more explicit and more clear in the
6 Guidebook and so on. It just puzzles me that,
7 that with the close working relationship that we
8 have had with Edison throughout the whole
9 verification process the question was never
10 raised.

11 I just say this not, again, to go back
12 and forth over whose fault this is because I think
13 we do share. We did verify these and so we do
14 share some of the responsibility for this, I think
15 there is no question of that. But I just say it
16 to object to the characterization of us changing
17 the rules.

18 MS. GENAO: And I think, you know, the
19 point Ms. Karlstad was trying to make is also that
20 our reading of the law is that the law has since
21 the inception of the program tied it to energy
22 deliveries. We can, we can disagree about whether
23 or not the Guidebook has changed in a way that
24 makes it more clear now or less clear now. But we
25 believe that the law that we were operating under

1 -- As we said, this is a contract signed in 2001
2 predating the RPS law that was allocated to SCE
3 after that. We had no -- We didn't negotiate it,
4 we didn't renegotiate it when the price was
5 changed. So it was allocated to us.

6 And I do understand that there's kind
7 of, it fell through the cracks given the close
8 working relationship. We did identify that we did
9 not own the renewable attribute in 2003. The
10 ability to do that disappeared in the 2004 and
11 2005 forms. But it is -- As I said, we are
12 willing to work with you guys going forward on
13 this stuff.

14 Other things that we have thought about
15 in terms of ways to address this or to -- Give RPS
16 compliance for all claimed amounts less all
17 reported amounts in the power source disclosure
18 label. So basically for all years cut out
19 whatever anybody else has claimed and give SCE the
20 residual.

21 Another option is only previously
22 verified amounts are countable for SCE. So '04
23 through '06, nothing else.

24 Another one is RPS compliance with
25 previously verified amounts less all power source

1 disclosure label amounts. So any year take out
2 whatever anybody else has a claim to. I think
3 there is still a little bit of uncertainty it
4 seems in terms of who -- what those numbers are.

5 So to the extent that there is some kind
6 of point at which that, those books are closed,
7 that would provide SCE with some certainty because
8 we would know what we have to do going forward to
9 cover any gaps that may be created. What is bad
10 for us in terms of planning is uncertainty in what
11 those numbers are and uncertainty after the fact
12 is even worse, you know.

13 And then obviously, as some in the room
14 would have you go, another option is no RPS
15 compliance credit. and that we think would harm
16 our customers because it leaves them no mechanism
17 for addressing these things for past purposes. It
18 creates uncertainty about the state policy
19 regarding historical RECs.

20 If the Commission's decision is voted
21 out today that says no RECs are created before
22 January 1, 2008, and SCE has a huge gaping hole in
23 some year between 2004 and 2007, what -- We can't
24 buy historical RECs so it means we have to buy
25 future generation.

1 Also, you know, as Ms. Karlstad said, at
2 some point we have to grapple with, this is a 66
3 megawatt wind farm in Riverside that the state
4 signed and it counts as part of its renewable
5 portfolio. To what extent do we want to leave it
6 unaccounted for in the RPS program?

7 And then, you know, we have to also
8 grapple with this idea of SB 107 and when it was
9 enacted in terms of allowing the state, the CPUC
10 to determine when RECs could be used. So if you
11 give us no credit there are also a lot of problems
12 that end up being out there.

13 So anyway those are some of the ways
14 that we have thought about how to slice and dice
15 the, the data that is out there and the equities
16 that are out there.

17 ASSOCIATE MEMBER DOUGLAS: I really
18 appreciate those suggestions and I think it is
19 helpful. Did you provide this in written comment?

20 MS. GENAO: We will be providing it on
21 April 3, we are still working on our comments.
22 You know, if it is helpful to you we can attach a
23 copy of the matrix that kind of sets out these
24 couple of options as well. I don't know that
25 there is a -- We'll work it into one of the

1 questions.

2 ASSOCIATE MEMBER DOUGLAS: I think we
3 are more than willing to wait until April 3 to
4 receive the information but I think it would be
5 helpful if we got it and were able to post it as
6 part of the docket. And I think it would be
7 possibly a conversation starter with others as
8 well.

9 MS. GENAO: Absolutely. Thank you.

10 MS. BARKALOW: Laura, actually there is
11 a question from a WebEx participant.

12 MS. GENAO: Yes.

13 MS. BARKALOW: "If SCE is allowed in any
14 way to count the disputed RECs towards their RPS
15 does that mean that the entire amount that the
16 other entities paid for or claimed are now
17 deleted? Is this the only option?"

18 MS. GENAO: I don't believe that anyone
19 else is claiming it for RPS credit so that is what
20 our proposal would be. Is to allow SCE to claim
21 it for RPS credit. I don't know what the effect
22 of that is on the voluntary markets. It is
23 probably -- Reading the attestation earlier, it's
24 a little confusing to me because the attestation
25 says, no one else can claim it for RPS credit.

1 And RECs can't be claimed for RPS credit so I
2 don't quite understand how that would work.

3 Our proposal, our first choice would be
4 to give SCE full RPS credit for this resource
5 because I don't believe anybody else who only
6 holds a REC can count it for RPS credit until the
7 CPUC determines that RECs are eligible for the RPS
8 program.

9 MS. BARKALOW: Are there any more
10 questions on this topic?

11 ASSOCIATE MEMBER DOUGLAS: Yes, there
12 was another question in the room.

13 MS. BARKALOW: Okay. Yes.

14 MR. OWENS: I would just like to
15 represent that municipal utilities --

16 ASSOCIATE MEMBER DOUGLAS: Could you
17 please, could you please speak at a microphone.
18 Thank you. For the benefit of everyone listening
19 on WebEx and sending questions in from WebEx.

20 MR. OWENS: You can tell I don't do this
21 too often, so. I just wanted to point out --

22 THE REPORTER: I need you to identify
23 yourself for the record, please. Thank you.

24 MR. OWENS: Larry Owens, manager,
25 Silicon Valley Power, City of Santa Clara.

1 The state has allowed municipal
2 utilities to set their own renewable portfolio
3 standards. Many of the municipal utilities have
4 included the use of renewable energy credits in
5 their compliance with RPS. So that further maybe
6 muddies the interpretation of the use of RECs for
7 RPS.

8 But clearly as a municipal utility
9 looking at acquiring resources, if we could claim
10 a wind power kilowatt hour, a null power as wind
11 power in our renewable portfolio standard, that
12 would be a little cheaper for us. So we still
13 want to move to make sure that bundled products of
14 renewable energy is recognized as that and not a
15 null product as a renewable power. Many of our
16 policies for the municipal utilities include
17 renewable energy credits.

18 MS. BARKALOW: There is another
19 question. I'm sorry, you are from 3Degrees?

20 MR. LIEBERMAN: Thanks. Dan Lieberman
21 with 3Degrees. I am just trying to understand
22 whether SCE thinks that every megawatt hour from
23 this facility or another similarly positioned
24 facility should be used for RPS compliance?

25 Because I think that the counter-side to

1 that argument is that these voluntary purchases of
2 renewable energy are actually done specifically to
3 remove a megawatt hour from RPS potential
4 compliance. And that builds a demand where RPS is
5 not a ceiling on renewable energy development but
6 these voluntary purchases are pushing the envelope
7 beyond that ceiling. And from your comments I
8 just want to make sure that I am clear on whether
9 you believe that every megawatt hour from Mountain
10 View should be used for RPS compliance for some
11 party.

12 MS. GENAO: I think --

13 ASSOCIATE MEMBER DOUGLAS: Can I ask
14 again, please -- Thank you.

15 MS. GENAO: I think there are a couple
16 of ways to think about that.

17 ASSOCIATE MEMBER DOUGLAS: I think you
18 may also be asked to identify yourself for the
19 record as soon as our --

20 MS. GENAO: Laura Genao, Southern
21 California Edison.

22 Once again it depends on what we are
23 trying to do here. If we are trying to
24 accommodate a special situation that came out of a
25 special time in California history it may not, it

1 may not be feasible to count every megawatt hour
2 towards the RPS program. So I think that is
3 something to consider.

4 We believe that these contracts should
5 be in the best case scenario counted for the RPS
6 program and you can't distinguish between SCE's
7 and SDG&E's and PG&E's. Those are three very
8 special contracts. They may be, they may be, 66
9 megawatts or 200 gigawatt hours a year. I don't
10 know what the size of the other two contracts are
11 for the other IOUs. But that's one way to give
12 the RPS program credit for customers' continuing
13 obligation to renewable resources at a time when
14 there wasn't very much other commitment to the
15 renewable resources. I think that is one part of
16 the question.

17 The second part of the question is,
18 maybe one of the ways, one of the solutions that I
19 had not identified is to allow SCE to fill any
20 gaps with, with RECs from the voluntary market. I
21 think there are some, some issues with that as
22 well depending on how the PUC defines a REC that
23 it can count. So that would also I think require
24 a special exception as one way for SCE to address
25 this issue of double counting.

1 But I think what you don't want to do
2 and what would be very infeasible would be to ask
3 us to try and go back and purchase the RECs from
4 people who already have them. Because it gives
5 those parties some power over us in terms of
6 pricing.

7 And in terms of, we still don't know
8 what the numbers are so who knows when we'll have
9 that list. And it would just -- We believe it
10 would be infeasible for us to go down that path of
11 trying to rebundle the product with the exact RECs
12 that came from it in the first place.

13 So one way of maybe addressing the
14 voluntary markets issue is to allow us to buy RECs
15 from the voluntary market going forward.

16 PRESIDING MEMBER LEVIN: Ms. Genao, you
17 said that you -- you lumped PG&E, SCE and SDG&E as
18 being all together. But my understanding is that
19 they did not use the contract or the power from
20 Mountain View toward their RPS procurement so they
21 are not in the same boat for this particular
22 issue.

23 Also in terms of purchasing the RECs.
24 We know, I assume we could find out what they were
25 purchased for at the time. So it doesn't strike

1 me that it is an issue of what you could negotiate
2 now retroactively. I mean, why isn't it feasible
3 to repurchase those from the various entities that
4 purchased them at the price that they purchased so
5 there isn't double counting? I mean, then you
6 know what the price is and there is no
7 negotiation. Isn't that another option?

8 MS. GENAO: I hadn't considered that.
9 Yes, that is another option. I don't know how the
10 owners of those RECs would feel about that.

11 PRESIDING MEMBER LEVIN: I don't either.
12 I'm just saying you don't necessarily have to
13 start negotiating now at some new 2009 price.

14 MS. GENAO: Right, right. That is also
15 an option, I had not considered that one.

16 Then also as to the issue of the other
17 utilities is I think one of the things to
18 recognize is the RPS rules and the implementation
19 of the RPS law is constantly, is constantly
20 evolving. Through decisions at the PUC and
21 actions here we test what you mean because the
22 rules aren't 100 percent clear.

23 So you have to, you know, a party puts
24 up a question and it doesn't necessarily mean that
25 it is not the rule and that shouldn't apply to

1 others.

2 PRESIDING MEMBER LEVIN: I think we have
3 been over this and I think, I agree with
4 Commissioner Douglas. I don't think this was a
5 question of the rules not being clear. I think it
6 was that there were multiple parties and multiple
7 contracts and you might not have been a party to
8 the original contract, things like that.

9 But again, you were the only utility
10 that had this problem. So we have to presume
11 there was some greater clarity there for the other
12 utilities that didn't seem to be there for you for
13 whatever set of reasons. But I don't think we
14 need to keep rehashing the issue of the rules.
15 They didn't change that quickly between 2002 and
16 2006.

17 MS. GENAO: Well I think our reading of
18 the law itself is that the law spoke about energy
19 from renewable generators. We believe that is a
20 very plain reading of both the statutes. So we
21 are not going to litigate it here, you know. So
22 we do want to work towards a cooperative answer to
23 this question.

24 But in the end I think it does have to
25 apply to all three of the IOUs. The others aren't

1 here today so maybe they don't care. But, you
2 know, I think it would be difficult to only apply
3 the exception to SCE. But if you'd like to that's
4 fine too.

5 PRESIDING MEMBER LEVIN: But I think
6 this issue has only come up with SCE.

7 MS. GENAO: Yes. Yeah, okay, I
8 understand your point. So what you are saying is,
9 why should we give SCE an exception. It's easier
10 to not give them an exception because we won't
11 have to deal with having to go back and do
12 anything retroactively for the other two IOUs.

13 PRESIDING MEMBER LEVIN: I don't think
14 there is any easy way to deal with this to be
15 honest.

16 MS. GENAO: Okay.

17 PRESIDING MEMBER LEVIN: It is not that
18 we are looking for the easy way out. But there is
19 at least the appearance of double counting. I
20 mean, you can say, well we are using it for RPS
21 compliance, they are using it for the voluntary
22 market. But certainly there are ramifications
23 about whether or not it's double counting in the
24 pure sense of RPS compliance or not.

25 But the fact is that SCE is here because

1 this was only an issue with SCE. And hopefully we
2 are all in agreement it is not going to be an
3 issue going forward and WREGIS will solve it. But
4 this particular situation only arose with SCE.

5 MS. GENAO: Correct. And it arose with
6 SCE after -- We don't want to -- There are lots of
7 people who looked at lots of things and didn't
8 come to conclusions with it. So it's, you know,
9 2003, 2004, 2005. There's some reliance that we
10 had on the Verification Report.

11 And, you know, what does that mean going
12 forward. Should we not rely on the Verification
13 Report because they are subject to change? I
14 don't know, that's a question that we have to
15 answer. And whatever you do here may or may not
16 set a precedent on that, depending on how that
17 decision comes out.

18 ASSOCIATE MEMBER DOUGLAS: Well a point
19 on the Verification Report is that the
20 Verification Report is based on self-reporting.
21 Relying on the Verification Report based on the
22 information you gave us is one thing. But when
23 the underlying information in the report turns out
24 to be either mistaken or subject to challenge, I
25 think we are fully entitled to come back and take

1 another look at it. I think based on the fact
2 that this is a self-reporting system. It just
3 would not work if we were not able to turn around
4 and look if the underlying information in the
5 report turns out to be, I won't say necessarily,
6 I'll just say, subject to challenge.

7 So I am not sure where the objection to
8 us going back and saying, we now know more about
9 this than we did when we verified the RECs. Now I
10 do -- I am very pleased that there is now a system
11 in place that won't let this happen again. I
12 don't think this will happen again but it is a
13 problem.

14 And I think the other problem that we
15 are all very, very aware of is that the value of
16 these attributes in the voluntary market is
17 predicated on their not being counted for RPS.
18 And I think that is the fundamental problem here.
19 If we just blanket count them for RPS we have by
20 that action nullified their value to the people in
21 the voluntary market or the REC market.

22 So that is why fundamentally that is the
23 nub of the issue here. And we are very willing to
24 think hard about how to, again, balance the
25 equities and think about what to do. But I would

1 be really reluctant to take a course of action
2 that nullified the value, in one action turned the
3 value of these voluntary market transactions to
4 zero.

5 MS. GENAO: And we understand that. And
6 as I said, our options as you saw don't all
7 involve us getting full credit.

8 ASSOCIATE MEMBER DOUGLAS: Absolutely.

9 MS. GENAO: So we are willing to, we are
10 willing to work with the Commission and the
11 counterparties on what that solution should be.
12 However, we don't believe that an appropriate
13 solution that appropriately balances equities also
14 leaves Edison's customers with zero credit in each
15 of the years.

16 ASSOCIATE MEMBER DOUGLAS: Thank you.

17 MS. BARKALOW: Okay, John Whitlow.

18 MR. WHITLOW: Hi. My name is John
19 Whitlow and I'm with Pacific Gas and Electric.

20 I just wanted to mention that of the DWR
21 contracts that were allocated to PG&E, none of
22 those were RPS contracts or had any attributes of
23 renewables. Therefore we didn't choose not to put
24 that in our power source disclosure. We couldn't,
25 they're all gas-fired contracts.

1 MS. BARKALOW: Thank you.

2 PRESIDING MEMBER LEVIN: Thank you.

3 MS. BARKALOW: John, just a clarifying
4 question then. You are saying all the DWR
5 contracts that PG&E received were fossil fuel
6 contracts and no renewable-based contracts?

7 MR. WHITLOW: That's correct.

8 MS. BARKALOW: Okay.

9 MR. WHITLOW: Yes.

10 MR. HERRERA: Excuse me, Mr. Whitlow,
11 can I ask you a question. I just went to DWR's
12 website just to see if there was information
13 concerning which of the DWR contracts were
14 allocated -- first of all, entered into DWR at
15 during that period of time. And I found on DWR's
16 website three contracts, one with Clearwood
17 Electric Company, one with the County of Santa
18 Cruz, and one involving Soledad Energy. I don't
19 know if any of those are wind related but they are
20 renewable related contracts.

21 And I may have the wrong information but
22 I just want to make sure that -- And perhaps we
23 can have a follow-up conversation concerning that.
24 Because I did take a look at at least one of those
25 contracts and it seems like it did include

1 language that was similar to the DWR contracts
2 assigned to Edison. I would be more than happy to
3 share that list with you.

4 MR. WHITLOW: Okay, yes.

5 MR. HERRERA: Maybe we can have some
6 follow-up comments.

7 MR. WHITLOW: Okay.

8 MR. HERRERA: Thanks.

9 MS. BARKALOW: Okay. And then Hans
10 Isern from 3 Phases Renewables.

11 MR. ISERN: Hello, I am Hans Isern with
12 3 Phases Renewables. Thank you for the
13 opportunity to weigh in and participate. I have
14 three main comments regarding this. First of all,
15 3 Phases Renewables was formerly 3 Phases Energy
16 Services. And then also we were part of 3Degrees,
17 we all used to be the same company.

18 It is our view, 3 Phases Renewables'
19 that purchasing the energy alone does not give you
20 a right to the environmental attributes of that
21 energy. And I think that that much is how we have
22 been treating it. We are not an IOU but we are a
23 load-serving entity in California and we are a
24 party to the RPS. We also had contracts back
25 during the power crisis where we were procuring

1 renewable power. We then sold the RECs into the
2 voluntary market. We did not count those RECs
3 towards RPS because they were resold into the
4 voluntary market.

5 It is also our opinion that repurchasing
6 some of the RECs might also undermine the
7 voluntary markets because a lot of these RECs were
8 used for marketing claims. And those were already
9 made to customers and other individuals and
10 parties. So any repurchase for something that
11 happened several years ago could also undermine
12 the integrity of the voluntary markets. And
13 that's all, thank you.

14 MS. BARKALOW: And then Alex from Center
15 for Resource Solutions, Green-e Energy. Did you
16 have another comment?

17 MR. PENNOCK: I'm Alex Pennock, manager
18 of Green-e Energy. Thanks for having me up again.

19 Just to follow-up on some comments a few
20 speakers back. I want to agree with something
21 that I believe Commissioner Douglas said. That
22 once a REC is claimed in the voluntary market or
23 anywhere for RPS, it is used, it is retired, it
24 cannot be resurrected, it cannot be resold.

25 For example, it was mentioned that

1 Safeway purchased a number of these RECs through
2 one of the markets that had bought them. To go
3 back to Safeway and say, the claim you made in
4 2005 or whenever it was they purchased them, is
5 now invalid, would have a detrimental effect.
6 There are those 24 wholesale buyers I mentioned,
7 those 70,000 retail customers who have made
8 claims.

9 Another point I wanted to make is that
10 while perhaps RECs as renewable energy
11 certificates were not being discussed years ago,
12 central to what makes a REC worth anything to
13 anybody are those renewable attributes. The
14 ability to say, I am using renewable energy, I am
15 having an effect on the environment and on
16 emissions. So rather than arguing about RECs
17 weren't called RECs back then, I think identifying
18 them as renewable attributes makes it very clear
19 what was and what was not being transferred in
20 that contract.

21 I also wanted to speak to a
22 representation of our attestation made earlier and
23 just reread a little bit of that attestation
24 language, if I can. Let me dig it out of my notes
25 here. Specifically number four.

1 "The renewable attributes for
2 the electricity that was generated
3 with the attributes was not used to
4 meet any federal, state or local
5 renewable energy requirement, etc."

6 So just to reiterate that electricity is
7 in that part of the declaration, signed off on by
8 the owner of the facility at that time. Thank you
9 very much. If you have any questions I'll be
10 happy to answer them.

11 ASSOCIATE MEMBER DOUGLAS: Thank you.

12 MS. BARKALOW: Okay. Are there any more
13 questions related to this topic?

14 MR. LEMEI: I have a question. My name
15 is Galen and I am with the -- Sorry. My name is
16 Galen Lemei; I'm with the California Energy
17 Commission.

18 I had a question. I believe this is a
19 question for 3Degrees or the facility. But how
20 exactly is the attestation form that Alex Pennock
21 just referred to incorporated into the contractual
22 mechanisms? Either between the generator and
23 3Degrees or between 3Degrees and subsequent
24 purchasers of the environmental attributes? I
25 don't know who can -- can someone speak to that?

1 MR. LIEBERMAN: Sorry. I'm doing this
2 on the fly but I am looking to see if there is
3 something in my handout that addresses this in
4 black and white.

5 MS. BARKALOW: Could you please state
6 your name for the record.

7 MR. LIEBERMAN: I'm sorry. This is Dan
8 Lieberman with 3Degrees.

9 MS. BARKALOW: Thank you.

10 MR. LIEBERMAN: And you have to forgive
11 me because I am not a contracts person so I am
12 trying to find the sections. But we included in
13 our, in our handout materials copies of seven
14 contracts that we have with the seller. And I
15 believe those conditions are contained in these
16 contracts but I want to refer you to specific
17 sections. Maybe I should sit. Should I sit down
18 and identify those sections and then come up
19 rather than --

20 MR. LEMEI: Or you can address them in
21 your comments.

22 MR. LIEBERMAN: Or I can address it in
23 written comments. I don't want to hold up --

24 PRESIDING MEMBER LEVIN: I was just
25 going to say, why don't you address it in written

1 comments.

2 MR. LIEBERMAN: Great.

3 PRESIDING MEMBER LEVIN: If any of the
4 parties would like to that would be helpful.

5 MR. LIEBERMAN: Okay.

6 MS. BARKALOW: Would you like to speak?

7 MS. O'CONNOR: Karleen O'Connor for AES
8 Wind Generation and Mountain View Power Partners.

9 We just want to reiterate that we will
10 address this in our comments as well. We will
11 review the contracts and identify the specific
12 language that explains how the RECs are
13 transferred and identified and quantified. And we
14 will provide that in our comments.

15 MS. BARKALOW: Thank you.

16 PRESIDING MEMBER LEVIN: This may be in
17 the documents that we already have or in the
18 testimony, I'm sorry, that I came in late for.
19 Can anyone put a total number on the RECs that
20 were purchased or the renewable attributes that
21 were purchased from Mountain View? Either
22 Mountain View or the purchasers. Do we know what
23 the total cost was at the time?

24 MS. BARKALOW: Are you asking about what
25 SCE purchased?

1 PRESIDING MEMBER LEVIN: No.

2 MS. BARKALOW: Or on the voluntary
3 market?

4 PRESIDING MEMBER LEVIN: On the
5 voluntary market.

6 MS. BARKALOW: The slide right here,
7 Table 4, is information that we have received from
8 Green-e Energy. It is their record, and correct
9 me if I am wrong Green-e, of what they have
10 accounted for as RECs having been sold into the
11 voluntary market. And these are Mountain View.

12 PRESIDING MEMBER LEVIN: Okay. We are
13 actually not talking about very large dollar
14 amounts in real terms. I am not speaking to the
15 value and a lot of other issues. But in actual
16 dollar amounts, by SCE standards, we are not
17 talking about enormous sums of money, are we?
18 Yes, please. I may be missing something entirely.

19 MS. MARTIN: Hi, I'm Jennifer Martin
20 from the Center for Resource Solutions again.

21 First I would like to point out that in
22 the 2004 data there, Green-e certified 42 percent.
23 But the other missing 58 percent could have been
24 sold in the voluntary market and it just wasn't
25 part of our program. So just because those

1 megawatt hours that were generated weren't
2 reported by us it doesn't mean that they weren't
3 sold in the voluntary market.

4 PRESIDING MEMBER LEVIN: Can I ask you
5 on that. Is your assumption that the numbers
6 would be roughly similar in cost to the prices?
7 So even if we accepted that's 42 percent, would
8 100 percent look like, you know, approximately
9 double that amount in dollars?

10 MS. MARTIN: Yes.

11 PRESIDING MEMBER LEVIN: I'm just trying
12 to get a magnitude sense of how many dollars are
13 we really talking about here.

14 MS. MARTIN: The other point to consider
15 is that these megawatt hours weren't sold just one
16 time. So even though we are talking about 600,000
17 megawatt hours here, you might have had double
18 that many transactions. So one megawatt traded
19 from the generator to a wholesaler to another
20 wholesaler, there's two sales there. So even
21 though a megawatt hour might be valued at \$5 a
22 megawatt hour, there was \$10,000 worth of
23 transactions on that one megawatt hour. And just
24 in terms of speaking for Green-e. We do not have
25 information about the prices at which the RECs

1 were sold so we would not be able to provide that
2 information.

3 PRESIDING MEMBER LEVIN: Thank you.

4 MR. LIEBERMAN: Hi, Dan Lieberman with
5 three degrees. So, you know, I think we are all
6 agreeing that the number may be about 600,000
7 RECs. I mean, just hypothetically, if we were
8 required to go out and procure similar RECs. I
9 mean, if SCE is allowed to make a claim on these
10 RECs then, you know, that is a complete taking of
11 all of these RECs that were sold.

12 The replacement value on those RECs is
13 quite expensive, you know, along the lines of, you
14 know, perhaps \$20 to \$50 per REC. So, you know,
15 that amount of money may seem insignificant to
16 SCE, but for a company like 3Degrees it would be,
17 you know, harmed perhaps the most. You know, we
18 are a very small shop so that is a very
19 significant amount of money for us.

20 PRESIDING MEMBER LEVIN: I don't mean to
21 imply it's insignificant to SCE or anyone else.

22 MR. LIEBERMAN: Okay.

23 PRESIDING MEMBER LEVIN: I'm just
24 trying, you know. At some point we are going to
25 have to figure out the equities here and having a

1 sense of what was the total value, dollar value at
2 the time.

3 MR. LIEBERMAN: Yes.

4 PRESIDING MEMBER LEVIN: Not to mention
5 the reputation of businesses, third-party entities
6 and the RECs themselves. There are a lot of
7 separate questions. But if we could even just get
8 a handle on what was the dollar value between 2004
9 and 2006.

10 MR. LIEBERMAN: Okay.

11 PRESIDING MEMBER LEVIN: I would find
12 that helpful to know.

13 MS. BARKALOW: Any more questions on
14 this topic? Okay, then I will, I have a couple
15 more cards here. Ryan Flynn from PacifiCorp.

16 MR. FLYNN: Good morning. My name is
17 Ryan Flynn, I am with PacifiCorp. PacifiCorp is
18 an investor-owned utility serving 1.7 million
19 customers across six states. On the west side we
20 have Washington, Oregon and California, on the
21 east side we serve parts of Idaho, Utah and
22 Wyoming. In California we serve approximately
23 46,000 customers in the very northern counties.
24 It represents about two percent of our service
25 territory.

1 I am here today to talk about the
2 certification of renewable resources by small
3 multi-jurisdictional utilities, which PacifiCorp
4 is here in California. And to clearly state that
5 PacifiCorp intends to certify all of its
6 California RPS-eligible facilities, including out-
7 of-state facilities.

8 We have been working with CEC staff
9 through the verification process to identify a
10 timely path for certification and we hope that
11 that has resolved any issues pertaining to
12 PacifiCorp here at this workshop.

13 So that's essentially my comments. My
14 colleague Jeremy Weinstein with PacifiCorp is here
15 as well. I don't know if he has any subsequent
16 comments to make.

17 MR. WEINSTEIN: Thank you, Ryan.
18 Commissioners, thank you very much for giving us
19 the opportunity to have this discussion.
20 PacifiCorp was so appreciative of the helpfulness
21 of staff in connection with this matter that we
22 thought it was important to demonstrate it by
23 bringing in from out of town two of our attorneys
24 to express our appreciation of really how helpful
25 staff was with respect to this.

1 And I think sometimes in the course of
2 when you have got a regulatory agency there is the
3 usual, you know, kind of kissing up to staff when
4 you are, you know, dealing with agencies. And I
5 really just want to express sincerely that with
6 PacifiCorp, especially under our new owners, where
7 I have seen 20 year employees walked to the door
8 for a compliance violation. I mean, our new
9 owners from Mid-America Energy, the Berkshire
10 Hathaway Companies take compliance extremely
11 seriously and they really very much want to comply
12 with the law.

13 So for staff to work with us in the
14 manner in which they worked with us, which was
15 helpful, which was explanatory of the rules, which
16 was sitting down with us and working through the
17 issues together. I just really want to express
18 that this was very helpful and this is really how
19 we think or how I think most people think
20 regulations should work. We have a regulator that
21 wants to ensure compliance and isn't just the, you
22 know, the nun with the ruler slapping the wrist,
23 it's the actual person guiding you to being a
24 compliant entity. So that's really what I had to
25 say.

1 MS. BARKALOW: Thank you.

2 ASSOCIATE MEMBER DOUGLAS: Thank you, we
3 appreciate you making the trip.

4 MS. BARKALOW: Okay, I have a card for
5 Matt Freedman from TURN.

6 MR. FREEDMAN: Thank you, Commissioners.
7 I'm Matt Freedman representing TURN. I'd just
8 like to maybe just ask a question or highlight an
9 issue that I think the Commission needs to address
10 and forgive me if it is already on the agenda.

11 In the 2008 report that the Commission
12 released relating to public-owned utility progress
13 towards their meeting their own RPS targets there
14 is a note in there explaining that there was no
15 attempt made to distinguish between bundled
16 electricity purchases by the publicly-owned
17 utilities and unbundled REC purchases, which were
18 being claimed for purposes of demonstrating
19 progress towards the RPS targets. And we have
20 heard some comments today even indicating that
21 unbundled RECs have been purchased for that
22 purpose.

23 Those same unbundled RECs could not have
24 been purchased by any retail seller and used for
25 compliance under the existing statutory framework

1 and the rules that the Public Utilities Commission
2 has yet to establish. So I think we have concerns
3 that there might be differential standards being
4 applied to various retailers in the state. And at
5 a minimum, given the sensitivity of the debate
6 over unbundled RECs in the legislature, we think
7 good information is necessary.

8 And the fact that the Energy Commission
9 has not required disclosure of whether purchases
10 were made through unbundled RECs or bundled
11 contracts is troubling. Now that's for the
12 municipal utilities, which I am not sure will be
13 dealt with in the context of the 2006 report we
14 are discussing today.

15 But I know that this report will be
16 addressing issues of electric service provider
17 clients and we want to make sure that ESPs are
18 required to disclose whether or not they are
19 claiming unbundled REC purchases for their RPS
20 compliance. And I hope it is not just a check box
21 on the form. I hope that there is some deeper
22 form of review to make sure that purchases that
23 are claimed were, in fact, bundled electricity.

24 I would also point out that in the 2005
25 Verification Report that the Commission released

1 there was a note about a dispute regarding
2 renewable energy credits associated with a QF
3 facility that has long been under contract to
4 PG&E. And the fact that that facility did, in
5 fact, sell some RECs to 3 Phases and that this was
6 a mistake and there's an acknowledgement that this
7 was an error made by the Energy Commission in
8 sending out the wrong form to this facility.

9 I want to make sure that RECs associated
10 with that facility are not being double counted.
11 That we don't have an ESP coming to the Commission
12 and claiming those RECs for purposes of compliance
13 when PG&E has already been credited with the power
14 and there is no dispute about PG&E's right to it.

15 In addition there is an issue the
16 Commission, the Public Utilities Commission, has
17 established requirements for electric service
18 providers relating to demonstration of purchases
19 from new renewable generation or renewable
20 generation under long-term contracts. That a
21 fraction of their annual target must be met
22 through those kinds of purchases.

23 And it is not clear to me whether the
24 Energy Commission intends to require submission of
25 data related to that requirement. And if it

1 doesn't I'm concerned that this might fall through
2 the cracks and there might be no showing made at
3 either of the two commissions.

4 So those are the concerns that I have
5 today and I just want to highlight them. And
6 maybe, maybe the staff is fully on top of this and
7 I apologize if I am beating a dead horse.

8 PRESIDING MEMBER LEVIN: Well can we ask
9 Heather or Gina if you can answer that. Does
10 WREGIS address these questions or provide more
11 clarification? Heather, do you want to take this?
12 I don't know.

13 MS. ZOCCHETTI: This is Kate.

14 PRESIDING MEMBER LEVIN: Kate, sorry.

15 MS. ZOCCHETTI: No, that's okay. Which
16 question were you --

17 PRESIDING MEMBER LEVIN: Either.

18 MS. ZOCCHETTI: All, any of them.

19 PRESIDING MEMBER LEVIN: The bundled
20 question and the second question about the PG&E
21 contracts.

22 MS. ZOCCHETTI: I am not, I can't speak
23 to the PG&E contracts. I don't know if Gabe can.
24 WREGIS relies on qualified reporting entities to
25 report the generation to WREGIS. In our, in our

1 track forms currently, which is what we are
2 talking about today, we don't ask that question.
3 We assume that --

4 What we do require is an attestation
5 saying that the claims meet our RPS eligibility
6 rules. I think, as was mentioned earlier, it is
7 basically a self-certification program and we
8 require them to sign the attestation that it is
9 true and correct to the best of their knowledge.

10 MR. FREEDMAN: If that is the case I
11 would submit that that's pretty inadequate in our
12 view and that there would need to be a much more
13 robust form of review to make sure that what is
14 being purchased is in compliance with the law and
15 the requirements that have been established in
16 regulation.

17 We have a lot of different actors out
18 there with varying degrees of sophistication about
19 how to comply with the rules. There may be at a
20 minimum some inadvertent errors. But even beyond
21 that, I think it is the duty of this Commission to
22 make sure that what is being claimed is what is
23 allowed.

24 ASSOCIATE MEMBER DOUGLAS: Well as we
25 see, even some of our most sophisticated

1 participants can trip up from time to time. Thank
2 you for your comments.

3 MR. HERRERA: If I could comment
4 quickly, Chairman Douglas.

5 Regarding the PG&E issue and the
6 Verification Report that you referenced. There
7 was some discussion early on and there was a
8 dispute in terms of who had ownership to those
9 RECs. And ultimately I think the Report did
10 conclude, as you indicated, that PG&E was the
11 rightful party to be able to claim that.

12 Now in subsequent years, if that same
13 ESP was to claim power from that facility then it
14 would show up in our track changes forms. So that
15 would be the check to make sure that they are not
16 claiming generation from that particular facility.

17 And that would be, I think, a pretty, it
18 would be a pretty comprehensive check in the sense
19 that if the facility's entire power was being
20 purchased by PG&E, then there is no generation
21 left over for the retail seller, or the ESP in
22 that case, to make claims for. So I think it
23 would get caught in subsequent years.

24 Concerning the POU reports. I am not
25 sure what our report said. If that report was

1 specific to retail sellers, the law does not
2 define POUs as retail sellers and so they do have
3 different requirements. So we may have not
4 reported in that particular report what a POU was
5 purchasing, I don't know. We can double check.

6 MR. FREEDMAN: Okay. I just wanted to,
7 want to emphasize the debate over whether to allow
8 unbundled renewable energy credits is very hot
9 right now. And certainly over in the Legislature
10 many members are interested in finding out what is
11 actually happening and so I think it would really
12 serve the debate. The more accurate information
13 that we have the better we are able to discuss
14 this topic going forward. So thank you.

15 MS. ZOCCHETTI: And Matt, if I could
16 just address your concern. I appreciate your
17 concerns.

18 PRESIDING MEMBER LEVIN: Kate, I don't
19 think your mic is on.

20 MS. ZOCCHETTI: Oh, I'm sorry. How is
21 that?

22 PRESIDING MEMBER LEVIN: Better.

23 MS. ZOCCHETTI: Okay, thank you. I
24 appreciate your concerns about the accuracy of the
25 information and we share your concern. And so I

1 think, I think we are confident that going forward
2 WREGIS will address those concerns. We have a lot
3 of criteria for qualified reporting entities to
4 take on that role of reporting generation to
5 WREGIS. We have a lot of safeguards in WREGIS to
6 protect against double counting and so on.

7 So before WREGIS was operational the
8 interim tracking system admittedly was a very
9 labor-intensive, kind of an Excel spreadsheet
10 manual process. So we had to rely on parties
11 attesting to the veracity of the information. We
12 don't have the resources to go out and make sure,
13 check all the facilities to make sure they are
14 doing what they claim they are doing. Nor the
15 retail sellers to say that we could check on what
16 they are claiming. But going forward we feel much
17 more confident that the information will be
18 accurate.

19 MR. FREEDMAN: Does WREGIS require a
20 demonstration as to whether the REC was purchased
21 on a stand-alone basis or through a bundled
22 transaction?

23 MS. ZOCCHETTI: No, WREGIS only deals
24 basically with RECs. So it does not, with the
25 exception of out-of-state where we have just added

1 the functionality to track delivery from out-of-
2 state into California and for other states as well
3 that want to use that functionality. WREGIS does
4 not really look at the energy path.

5 MR. FREEDMAN: Okay. So I guess my
6 point would be that I am not as concerned about
7 double counting, I am more concerned about whether
8 we have retail sellers who would be reporting
9 unbundled REC purchases for purposes of compliance
10 and that would be a violation of the law.

11 MS. ZOCCHETTI: Correct.

12 MR. FREEDMAN: So I just want to make
13 sure that if there are such transactions being
14 reported that there is a way to discover them
15 through more than just a signature on an
16 attestation.

17 MS. ZOCCHETTI: Well that's sort of why
18 we are here today. That's another way that we
19 find them is by going through our process of
20 verification.

21 PRESIDING MEMBER LEVIN: Matt, can I
22 just ask. As someone very new and I haven't yet
23 really seen WREGIS in the works so I am not as
24 familiar with it. Are you suggesting that there
25 would be something like a specific question, you

1 know, column in WREGIS that is, is this bundled or
2 not, to highlight that issue?

3 MR. FREEDMAN: You know, I don't have a
4 particular proposal, I came more just to raise the
5 question. And I would be happy to work with the
6 staff here to provide a more concrete proposal.
7 But I guess I am wary of kind of a, you know,
8 attestation-based verification system where there
9 is no digging into how the transactions were
10 conducted. I'm a professional skeptic so this is
11 why I ask these questions. And I have concerns
12 about whether the information that is provided at
13 like a high level of generality is going to be
14 enough for us.

15 ASSOCIATE MEMBER DOUGLAS: I think we
16 are all very pleased to be moving on from an
17 attestation-based reporting system to a more
18 sophisticated tracking system.

19 MS. ZOCCHETTI: If I may add to that.
20 We do dig if the generation and procurement of the
21 generation is over. I'm sorry, if the claims are
22 over by five percent. As you see the results of
23 today, we do quite a bit of digging. And we ask
24 for invoices to verify what was purchased and we
25 ask for, if we can, parts of the contract that are

1 public to try to dig at that. So wherever there
2 is a red flag we do dig.

3 MR. FREEDMAN: Okay.

4 PRESIDING MEMBER LEVIN: I think this is
5 an important issue. And Mr. Freedman is correct
6 that the Legislature is very concerned about this,
7 we have gotten a lot of inquiries. So if there is
8 a way to talk off-line about how to ensure that
9 WREGIS really does answer the question or assure
10 that participation complies with the law, and it
11 is very specific on the question of bundling or
12 not bundled, it's worth following up about. We
13 will certainly be asked, I think for a long time
14 to come.

15 MR. FREEDMAN: Thank you very much.

16 MS. BARKALOW: Any more questions or
17 comments?

18 MR. OWENS: Larry Owens, Silicon Valley
19 Power and City of Santa Clara. I just want to
20 make one thing clear that I probably wasn't very
21 clear about when I spoke before. Is that our
22 voluntary program for RECs is completely
23 independent of our procurement of power for the
24 Renewable Portfolio Standard.

25 The Renewable Portfolio Standard

1 accommodates a potential future of being able to
2 trade RECs for an RPS standard as WREGIS becomes
3 more formally adopted. But the two programs are
4 separate. We see them as important to be separate
5 because we continue to want to drive more
6 renewable power through voluntary purchases in
7 that regard. Thank you.

8 MS. BARKALOW: All right, John.

9 MR. WHITLOW: John Whitlow, PG&E. I
10 just want to correct a statement that I made
11 earlier. We did receive power from Soledad in
12 2005 and we did claim it. Soledad is biomass.
13 The other two I don't find. Thank you.

14 PRESIDING MEMBER LEVIN: So do we know
15 whether Soledad sold RECs on the voluntary market
16 as well? Is this analogous to Mountain View then?

17 MR. HERRERA: Commissioner Levin, I know
18 that I have reviewed a couple of the contracts
19 that were posted on-line on DWR's website. Some
20 of those contracts had expressed provisions that
21 allowed the owner of the renewable facility to
22 retain the RECs, some did not. Some of the
23 agreements are not posted on-line. So I am not
24 sure if that particular contract had provisions
25 that allowed the owner of the facility to claim

1 it.

2 I do know that Soledad is a biomass
3 facility. DWR's website also indicates that PG&E,
4 that there was a landfill gas facility with
5 perhaps the City of Santa Cruz and a geothermal
6 facility identified as Clearwood. And I believe
7 the CPUC decision that assigned DWR contracts
8 assigned those three contracts to PG&E. I'll
9 certainly discuss it with Whitlow after this
10 though.

11 ASSOCIATE MEMBER DOUGLAS: This might be
12 a valuable topic to follow up on in written
13 comments or prior to that. Thank you for the
14 clarification.

15 PRESIDING MEMBER LEVIN: Thank you,
16 Mr. Whitlow, for pointing that out.

17 MS. BARKALOW: Any other questions?

18 Okay. Well we are running ahead of
19 schedule here. We had slated for discussion
20 through 12 o'clock. So we have an afternoon
21 presentation at 1:30 that will just go over the
22 data, a high level analysis of the data that we
23 have analyzed for 2006 from the individual retail
24 sellers.

25 I am wondering how much we can rearrange

1 our schedule. I know a lot of you have traveled
2 from out of town and would probably appreciate
3 leaving earlier. Maybe we can break early for
4 lunch? We had planned to start at 1:30. Maybe
5 start -- I'm not quite sure how to handle this.
6 Kate, do you have any suggestions?

7 MR. ALVAREZ: Can't we just go through
8 the agenda and finish up before noon?

9 MR. HERRERA: The only problem with
10 that, Manuel, is there could be individuals that,
11 you know, delayed their arrival here so that they
12 could hear the afternoon discussion. I don't
13 know. Gina?

14 MS. GENAO: Was it noticed that way? I
15 don't think -- I think it was just 9 a.m.

16 MS. GONZALEZ: It wasn't, it wasn't
17 noticed, the agenda.

18 MS. GENAO: It wasn't noticed for 1:30.
19 We just found out when we got here today.

20 MR. HERRERA: Okay. Well if that's the
21 case unless there is, you know, opposition perhaps
22 we can just continue forward with the data.

23 MS. BARKALOW: Sure. How about we take
24 a 15 minute break and start at 11:15.

25 (A recess was taken off the record.)

1 MS. ZOCCHETTI: So if we could take our
2 seats we would like to start the quote/unquote
3 afternoon session. We understand that the
4 handouts are all gone. Perhaps any new folks
5 don't need them. I don't think we do have any new
6 folks. But we are making some more copies.

7 So I don't think I need to go over the
8 housekeeping rules again being that we don't have
9 any new people, I don't believe, do we? So we are
10 going to launch right into it.

11 I would like to introduce Lorraine
12 Gonzalez who is going to go over the data with you
13 this morning. Lorraine.

14 MS. GONZALEZ: Good morning still
15 everyone. My portion of the presentation is for
16 the data review. I am going to be presenting some
17 of the data analysis in the tables that will be
18 included in the RPS Procurement Verification
19 Report. I just want to remind you to please
20 remember that these are draft tables and we will
21 welcome any of your input on any of the data that
22 I will be showing today.

23 Before I get to the tables I am going to
24 start with some background. The workshop is part
25 of a two-step process to finalize the data for the

1 RPS Procurement verification Report.

2 As part of the first step we are
3 presenting today at this workshop -- we are
4 presenting data today at this workshop to help
5 finalize the information that we have gathered.
6 Then we will make any needed revisions based on
7 comments received today and in written comments
8 and present the results of the analysis in a draft
9 report which will also be made available for
10 public comment before it is finalized.

11 To conduct our data analysis we used an
12 interim tracking system to verify the claims.
13 This year a new database was established to
14 compile generation and procurement data into one
15 source and to make it easier to identify specific
16 facilities and any competing claims associated
17 with a particular facility. With the database we
18 could also easily identify procurement claims that
19 exceeded total generation by five percent or more.

20 To give you an idea of the huge amount
21 of data we were tasked with verifying in this
22 report. We analyzed an approximate total of 1700
23 individual procurement claims for -- it was
24 actually between 2004 and 2006. As many of you
25 know we have been working with retail sellers to

1 resolve various issues and in some cases we are
2 still trying to reach resolution.

3 For 2007 we will continue to use the
4 interim tracking system.

5 For the procurement occurring in 2008
6 the interim tracking system will be supplemented
7 by WREGIS. And in 2009 WREGIS will be the only
8 verification system. In 2009 forward.

9 Data came from a variety of sources.
10 Procurement data was reported by retail sellers on
11 CEC-RPS-Track forms and power source disclosure
12 annual reports.

13 Annual generation data was obtained from
14 various reporting programs within the Energy
15 Commission, also from the US Energy Information
16 Administration, and/or invoices submitted by
17 retail providers if their procurement claims
18 exceeded generation by five percent or more.

19 In some cases where there was a large
20 variance in generation data Energy Commission
21 staff contacted the generating facilities
22 themselves for verification of generation data, or
23 still has plans to investigate these issues
24 further. Many thanks are due to all the retail
25 sellers for their patience and cooperation in

1 helping us compile this data. Cooperation from
2 the retailers made our jobs much easier.

3 There were a few new developments for
4 2006. For instance, the data presented today
5 includes information from 2004 through 2006 for
6 electric service provides and small and multi-
7 jurisdictional utilities. Previously only
8 investor-owned utilities were required. There
9 were six ESPs who submitted claims during this
10 time period and PacifiCorp is the only multi-
11 jurisdictional utility making claims.

12 Also SCE resubmitted RPS data and so we
13 are including updated data from 2004 through 2006
14 for them.

15 With the implementation of our new
16 database system we were able to locate generation
17 data that was not previously available in earlier
18 reports. In these instances we were able to
19 verify claims that had not been previously
20 verified, as is the case for some claims from PG&E
21 and SDG&E in 2004 and 2005.

22 There were a few limitations of the
23 interim tracking system that should be noted. For
24 instance there was some difficulty identifying
25 claims from individual facilities due to different

1 names being used. Oftentimes when a facility
2 changes ownership the facility name will change
3 also. Some facilities have many different
4 generating units but may report generation data
5 under one facility ID. In these cases the new
6 database was a great help in using identification
7 numbers to assure that generation was being
8 assigned to the right facility and unit.

9 In some cases procurement exceeded
10 generation by five percent or more so we had to
11 request invoices from the retail sellers to verify
12 their procurement claims, and/or request
13 confirmation that the procurement they were
14 claiming came from bundled purchases.

15 A new and important consideration for us
16 is whether RECs are being claimed on the voluntary
17 market. But we are working with Green-e Energy to
18 address this issue.

19 On the screen is a blank template for
20 one of the tables we are proposing to use in the
21 Verification Report. The tables identify the
22 following data: Procurement from facilities
23 without certification, procurement from facilities
24 in which procurement claims exceeded generation by
25 five percent or greater, procurement from

1 distributed generation facilities, procurement of
2 non-bundled energy, RPS-eligible procurement and
3 annual retail sales.

4 We pulled annual retail sales data
5 reported on RPS-Track forms where available. But
6 in some cases we pulled the numbers for the annual
7 retail sales from CPUC compliance reports. If you
8 notice an asterisk next to the annual retail sales
9 number this indicates that the number was pulled
10 from the CPUC compliance report. Please be sure
11 to check that all numbers listed for annual retail
12 sales on our tables match CPUC compliance filings
13 numbers, or let us know if we should be using
14 different numbers in our tables.

15 You can see that the template has
16 several footnotes, but for ease of viewing I have
17 removed them from the next few slides. To speed
18 up this presentation I am going to move through
19 these next slides rather quickly.

20 But again, remember that these are draft
21 tables and we would appreciate any comments or
22 corrections you may have in order to verify that
23 our information is correct. If you prefer to
24 contact me about any questions on these tables
25 after the workshop please feel free to do so.

1 Also be aware that we are only including retail
2 sellers that reported claims to us for this time
3 period in these tables.

4 So for APS Energy Services there are no
5 outstanding issues. And for further clarification
6 you can see rows two through five, so that would
7 be Procurement from Facilities without RPS-
8 Certification, through Procurement of Non-Bundled
9 Energy. If there are zeros in those rows that
10 indicates there are no unresolved issues.

11 Calpine Power America, there are no
12 issues.

13 Constellation New Energy, no outstanding
14 issues.

15 Pilot Power Group, no outstanding
16 issues.

17 Sempra Energy Solutions. We do have one
18 unresolved issue with a procurement claim
19 exceeding generation by five percent but Sempra is
20 currently in the process of resolving the issue
21 with staff.

22 Strategic Energy, no outstanding issues.

23 PacifiCorp. As you may have heard this
24 morning PacifiCorp has some issues with
25 procurement from facilities without RPS

1 certification. But we are definitely working with
2 them to resolve those issues and I think they
3 should be resolved soon.

4 Pacific Gas and Electric. We believe
5 that we have resolved all outstanding issues with
6 PG&E.

7 San Diego Gas and Electric. We believe
8 that we have resolved all outstanding issues with
9 SDG&E.

10 Southern California Edison. The most
11 notable issue here is the claim for the Mountain
12 View energy, which is represented as a procurement
13 of non-bundled energy in the table. Determination
14 has not been made yet as to how the issue will be
15 resolved.

16 As Gina mentioned previously, next steps
17 will be to include any needed revisions to the
18 data in a draft report, which will then be made
19 available for public comment. The draft report
20 will also include an appendix with all retail
21 claims.

22 Once the report is adopted by the Energy
23 Commission we will transmit the report to the CPUC
24 for determination of compliance with RPS
25 requirements.

1 Retail sellers will then be required to
2 issue a verified compliance report 30 days after.

3 I will now open the floor to any
4 comments or questions.

5 I would like to thank you again for your
6 assistance in preparing the data review.

7 Remember that comments are due by
8 Friday, April 3, and you can refer to the workshop
9 notice for detailed instructions on submitting
10 comments.

11 For those of you who we are working with
12 on outstanding issues we look forward to resolving
13 these issues in the near future.

14 And if you need further information you
15 can visit our website or contact me directly; and
16 my information is up. And that's all, thank you
17 again.

18 (Whereupon, at 11:31 p.m., the Staff
19 Workshop was adjourned.)

20 --oOo--

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CERTIFICATE OF REPORTER

I, JOHN COTA, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Staff Workshop; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said workshop, nor in any way interested in outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of April, 2009.



JOHN COTA